

A NONSUBSTANTIVE REVISION
OF STATUTES RELATING TO
SOLVENCY OF INSURERS, PROPERTY AND CASUALTY
INSURANCE, OTHER TYPES OF INSURANCE COVERAGE,
AND UTILIZATION REVIEW AND INDEPENDENT REVIEW

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limits, standards, and guidelines with respect to the risk-limiting transactions authorized under this article and plans related to those transactions.

Revisor's Note

Section 7, V.T.I.C. Article 2.10-4, refers to "risk-limiting transactions" authorized under this subchapter. To be consistent with the terminology used in other provisions revised in this subchapter, the revised law substitutes a reference to "risk control transactions."

Revisor's Note
(End of Subchapter)

Section 3(b), V.T.I.C. Article 2.10-4, requires certain insurers to send notice to the commissioner of insurance by a date that has now passed. Consequently, the revised law omits the requirement as executed. The omitted law reads:

(b) An insurer engaged in hedging transactions on September 1, 1999, shall send to the commissioner a notice containing the statements required by Subsection (a) of this section not later than October 1, 1999.

CHAPTER 425. RESERVES AND INVESTMENTS FOR LIFE INSURANCE

COMPANIES AND RELATED ENTITIES

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5 CHAPTER 425. RESERVES AND INVESTMENTS FOR LIFE INSURANCE

6 COMPANIES AND RELATED ENTITIES

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Revised Law

9 Sec. 425.001. SECURITIES IN AMOUNT OF RESERVES

10 REQUIRED. The commissioner, after determining the amount of the

11 reserves required on all of a life insurance company's policies in

12 force, shall ensure that the company has at least that amount in

13 securities of the class and character required by the law of this

14 state, after all debts and claims against the company and the

15 minimum capital required by Chapter 841 or 982, as applicable, have

16 been provided for. (V.T.I.C. Art. 3.32.)

17 Source Law

18 Art. 3.32. Having determined the required

19 reserves on all the policies in force, the Board shall

20 see that the company has in securities of the class and

21 character required by the laws of this State the amount

22 of said reserves on all its policies, after all the

23 debts and claims against it and the minimum capital

24 required by this chapter have been provided for.

25 Revisor's Note

26 (1) V.T.I.C. Article 3.32 refers to "the Board,"

27 meaning the Board of Insurance Commissioners. Under

28 Chapter 499, Acts of the 55th Legislature, Regular

29 Session, 1957, administration of the insurance laws of

30 this state was reorganized and the powers and duties of

31 the Board of Insurance Commissioners were transferred

32 to the State Board of Insurance. Chapter 685, Acts of

33 the 73rd Legislature, Regular Session, 1993, abolished

34 the State Board of Insurance and transferred its

35 functions to the commissioner of insurance and the

36 Texas Department of Insurance. Throughout this

37 chapter, references to either board have been changed

1 appropriately.

2 (2) V.T.I.C. Article 3.32 refers to "the
3 company," apparently referring back to an insurance
4 company described by former V.T.I.C. Article 3.28, as
5 it existed at the time Article 3.32 was enacted by
6 Chapter 491, Acts of the 52nd Legislature, Regular
7 Session, 1951, which refers to "every company
8 organized under the laws of this State, or authorized
9 to transact business in this State . . . on the lives
10 or persons of citizens of this State." Accordingly,
11 the revised law substitutes "life insurance company"
12 for "company."

13 (3) V.T.I.C. Article 3.32 refers to the minimum
14 capital required by "this chapter," meaning V.T.I.C.
15 Chapter 3. The applicable minimum capital
16 requirements formerly provided by Chapter 3 were
17 revised in 2001 in Chapters 841 and 982 of this code,
18 and the revised law is drafted accordingly.

19 Revised Law

20 Sec. 425.002. CERTAIN INSURERS: DEPOSIT OF SECURITIES,
21 MONEY, OR PROPERTY IN AMOUNT OF LEGAL RESERVES. (a) Except as
22 provided by Subsection (b), a life insurance company incorporated
23 under the laws of this state may deposit with the department, for
24 the common benefit of all the holders of the company's policies and
25 annuity contracts and in an amount equal to the legal reserve on all
26 the company's outstanding policies and contracts in force,
27 securities of the character in which the law of this state permits
28 the company to invest, or against which the law of this state
29 permits the company to loan, the company's capital, surplus, or
30 reserves.

31 (b) A life insurance company may not make a new deposit of
32 securities after August 28, 1961, except to the extent expressly
33 required by Section 425.003.

34 (c) For purposes of this section, securities may be

1 physically delivered to the department without being accompanied by
2 a written transfer of a lien securing the securities. A life
3 insurance company may deposit registered or unregistered United
4 States government securities under this section.

5 (d) A life insurance company may deposit lawful money of the
6 United States instead of all or part of the securities described by
7 Subsection (a). A company may, for the purposes of the deposit
8 described by Subsection (a), convey to the department in trust the
9 real property in which any part of the company's reserve is lawfully
10 invested. If the company conveys the property, the department
11 shall hold the title to the property in trust until the company
12 deposits with the department securities to take the place of the
13 property, at which time the department shall reconvey the property
14 to the company.

15 (e) The department may have any securities or real property
16 appraised and valued before the securities or real property may be
17 deposited with or conveyed to the department under this section.
18 The life insurance company shall pay the reasonable expense of the
19 appraisal or valuation.

20 (f) For purposes of state, county, and municipal taxation,
21 the situs of the deposited securities is the municipality and
22 county in which the life insurance company's charter requires the
23 principal business office of the company making the deposit to be
24 located. (V.T.I.C. Art. 3.16, Secs. 1 (part), 2, 3.)

25 Source Law

26 Art. 3.16
27 Sec. 1. Any life insurance company now or which
28 may hereafter be incorporated under the laws of this
29 State may deposit with the State Board of Insurance for
30 the common benefit of all the holders of its policies
31 and annuity bonds, securities of the kinds in which, by
32 the laws of this State, it is permitted to invest or
33 loan its capital, surplus and/or reserves, equal to
34 the legal reserve on all its outstanding policies in
35 force, The physical delivery of such
36 securities to the State Board of Insurance shall be
37 sufficient without being accompanied by a written
38 transfer of any lien securing them. Any such company
39 may deposit lawful money of the United States in lieu
40 of the securities above referred to, or any portion
41 thereof, and may also, for the purposes of such
42 deposit, convey to said State Board of Insurance in

1 trust the real estate in which any portion of its said
2 reserve may be lawfully invested. In such case, the
3 State Board of Insurance shall hold the title thereto
4 in trust until other securities in lieu thereof shall
5 be deposited with it, whereupon it shall reconvey the
6 same to such company. Said State Board of Insurance
7 may cause any such securities or real estate to be
8 appraised and valued prior to their being deposited
9 with or conveyed to it, in trust as aforesaid; the
10 reasonable expense of such appraisement or valuation
11 to be paid by the company. Under the provisions of
12 this Article, registered as well as unregistered
13 United States Government securities may be deposited.

14 Sec. 2. Notwithstanding the provisions of
15 Section 1, of this Article, no new deposit of
16 securities will be lawful after the effective date of
17 this Section, except to the extent expressly required
18 by Article 3.17.

19 Sec. 3. For the purpose of state, county, and
20 municipal taxation the situs of securities deposited
21 with the State Board of Insurance shall be in the city
22 and county where the principal business office of such
23 company is fixed by its charter.

24 Revisor's Note

25 (1) Section 1, V.T.I.C. Article 3.16, provides
26 that "[a]ny life insurance company now or which may
27 hereafter be incorporated under the laws of this
28 state" may deposit securities in the amount of the
29 company's legal reserves. The revised law substitutes
30 "a life insurance company incorporated under the laws
31 of this state" for the quoted language. Section
32 311.022, Government Code (Code Construction Act),
33 which applies to the revised law, provides that a
34 statute is presumed to operate prospectively unless
35 expressly made retroactive. Therefore, the law as
36 revised refers to a life insurance company that is
37 incorporated at any time without the necessity of an
38 express reference to companies incorporated in the
39 future.

40 (2) Section 1, V.T.I.C. Article 3.16, refers to
41 "annuity bonds." Throughout this subchapter, the
42 revised law substitutes "annuity contract" for
43 "annuity bond" for consistency with other provisions
44 of this code and because "annuity contract" is the more
45 accurate term.

1 (3) Section 1, V.T.I.C. Article 3.16, refers to
2 "securities of the kinds in which" the laws of this
3 state permit a life insurance company to invest. For
4 consistency throughout this chapter, the revised law
5 throughout this chapter substitutes "character" for
6 "kind" in this context.

7 (4) Section 1, V.T.I.C. Article 3.16, refers to
8 a deposit being equal to "the legal reserve on all [a
9 life insurance company's] outstanding policies in
10 force." Because of the preceding reference in Section
11 1 to the deposit being for the benefit of "all the
12 holders of [the company's] policies and annuity
13 bonds," it is clear from the context that the amount of
14 the deposit is intended to be equal to the reserves on
15 outstanding policies and on outstanding annuity
16 contracts. The revised law is drafted accordingly.

17 (5) Section 2, V.T.I.C. Article 3.16, refers to
18 "the effective date of this Section," meaning Section
19 2, V.T.I.C. Article 3.16. Section 2 was added by
20 Chapter 469, Acts of the 57th Legislature, Regular
21 Session, 1961. That act took effect August 28, 1961.
22 Accordingly, the revised law substitutes "August 28,
23 1961," for "the effective date of this Section."

24 (6) Section 3, V.T.I.C. Article 3.16, refers to
25 a "city." The revised law substitutes "municipality"
26 for "city" because that is the term used in the Local
27 Government Code.

28 Revised Law

29 Sec. 425.003. CERTAIN INSURERS: REQUIRED DEPOSITS OF
30 SECURITIES; ADDITIONAL DEPOSITS AND WITHDRAWALS. (a) A life
31 insurance company that, before August 28, 1961, issued or assumed
32 the obligations of policies or annuity contracts that were
33 registered as provided by Article 3.18, as that article existed
34 before August 28, 1961, shall have on deposit with the department

1 securities of the character described by Section 425.002 in an
2 amount equal to or greater than the aggregate net value of the
3 company's outstanding registered policies and annuity contracts in
4 force.

5 (b) To comply with Subsection (a), a life insurance company
6 shall periodically make additional deposits of securities in
7 amounts of not less than \$5,000. A company whose deposits exceed
8 the aggregate net value of the company's outstanding registered
9 policies and annuity contracts in force may periodically withdraw
10 the excess in amounts of not less than \$5,000. A company may at any
11 time withdraw any of the company's deposited securities by
12 depositing in their place securities of equal value to the
13 securities replaced and of a character authorized by this chapter.

14 (c) A life insurance company may at any time collect the
15 interest, rents, and other income from the company's securities on
16 deposit.

17 (d) The net value of each policy or annuity contract subject
18 to this section is the policy's or contract's value according to the
19 standard prescribed by state law when the first premium on the
20 policy or contract is paid, minus the amount of any liens the life
21 insurance company has against the policy or contract not to exceed
22 the policy's or contract's value.

23 (e) The department shall hold a life insurance company's
24 securities on deposit with the department under this section in
25 trust for the benefit of all holders of the company's outstanding
26 policies and annuity contracts that were registered as provided by
27 Article 3.18, as that article existed before August 28, 1961.

28 (f) A life insurance company that has outstanding
29 registered policies or annuity contracts in force may not reinsure
30 all or any part of that outstanding business, other than in a
31 company authorized to engage in business in this state. (V.T.I.C.
32 Art. 3.16, Sec. 1 (part); Art. 3.17.)

33 Source Law

34 [Art. 3.16]

1 Sec. 1. [Any life insurance company now or which
2 may hereafter be incorporated under the laws of this
3 State may deposit with the State Board of Insurance for
4 the common benefit of all the holders of its policies
5 and annuity bonds, securities of the kinds in which, by
6 the laws of this State, it is permitted to invest or
7 loan its capital, surplus and/or reserves, equal to
8 the legal reserve on all its outstanding policies in
9 force,] which securities shall be held by said State
10 Board of Insurance in trust for the purpose and objects
11 herein specified. . . .

12 Art. 3.17

13 Sec. 1. Any life insurance company which has
14 heretofore issued or assumed the obligations of
15 policies or annuity bonds which have been registered
16 in the manner at any time authorized by this Chapter,
17 shall at all times hereafter have on deposit with the
18 State Board of Insurance securities of the character
19 described in Article 3.16 in amounts equal to or in
20 excess of the aggregate net value of such outstanding
21 registered policies and annuity bonds in force, and
22 for such purpose new and additional deposits of
23 securities shall be made from time to time and in
24 amounts of not less than Five Thousand Dollars
25 (\$5,000). Any such company whose deposits exceed such
26 aggregate net value of its outstanding registered
27 policies and annuity bonds in force may from time to
28 time withdraw such excess by withdrawals of not less
29 than Five Thousand Dollars (\$5,000). Any such company
30 may at any time withdraw any of its deposited
31 securities by depositing in their stead others of
32 equal value and of the character authorized by this
33 Chapter, and may collect the interest, rents and other
34 income from its securities on deposit. The net value
35 of every policy or annuity bond subject to this Act
36 shall be its value according to the standard
37 prescribed by the laws of this State, when the first
38 premium thereon has been paid, less the amount of such
39 liens as the company may have against it not in excess
40 of such value.

41 Sec. 2. The securities of any such company on
42 deposit with the State Board of Insurance shall be held
43 in trust by said board for the benefit of all of the
44 holders of the outstanding policies and annuity bonds
45 of such company which have been registered pursuant to
46 this Chapter.

47 Sec. 3. No company which has outstanding
48 registered policies or annuity bonds in force shall
49 reinsure its outstanding registered business, or the
50 whole of any one or more of its registered policies or
51 annuity bonds, except in a company or companies
52 incorporated and organized under the laws of this
53 State or having permission to do business in this
54 State.

55 Revisor's Note

56 (1) Section 1, V.T.I.C. Article 3.17, refers to
57 policies and annuities that have "heretofore" been
58 issued or assumed and have been registered in the
59 manner that was at any time authorized by "this
60 Chapter," meaning V.T.I.C. Chapter 3. Under V.T.I.C.

1 Article 3.18 as enacted by Chapter 491, Acts of the
2 52nd Legislature, Regular Session, 1951, certain life
3 insurance policies and annuity contracts were required
4 to be registered with the Board of Insurance
5 Commissioners. Article 3.18 was amended by Chapter
6 469, Acts of the 57th Legislature, Regular Session,
7 1961; Section 1, V.T.I.C. Article 3.18, was added to
8 provide that, after the effective date of that
9 section, "no policy or annuity bond shall be
10 registered in the manner heretofore authorized by this
11 Chapter." Chapter 469 took effect August 28, 1961.
12 Accordingly, the revised law substitutes "before
13 August 28, 1961," for "heretofore," and refers to
14 registration as provided by Article 3.18 "as that
15 article existed before August 28, 1961."

16 (2) Section 1, V.T.I.C. Article 3.17, requires
17 certain life insurance companies to have "at all times
18 hereafter" certain securities on deposit. The revised
19 law omits "at all times" because, absent a limitation
20 on the requirement to have securities on deposit, the
21 requirement applies at all times without an express
22 statement to that effect. In addition, the revised law
23 omits the reference to "hereafter" as unnecessary
24 because Section 311.022, Government Code (Code
25 Construction Act), applicable to the revised law,
26 provides that a statute operates prospectively unless
27 expressly made retrospective.

28 (3) Section 1, V.T.I.C. Article 3.17, refers to
29 securities "authorized by this Chapter," meaning
30 V.T.I.C. Chapter 3. Although Chapter 3 is revised in
31 several titles throughout this code, the revised law
32 refers to this chapter of the revised law because this
33 chapter revises V.T.I.C. Articles 3.33 and 3.39, which
34 are the applicable provisions of V.T.I.C. Chapter 3

governing authorized securities for a life insurance company.

(4) Section 3, V.T.I.C. Article 3.17, refers to an insurance company "incorporated and organized under the laws of this State" or authorized to engage in business in this state. The revised law omits the quoted language as unnecessary because a company that is authorized to engage in business in this state includes a company that is incorporated and organized under the laws of this state.

Revised Law

Sec. 425.004. RECORDS OF SECURITIES DEPOSITED WITH DEPARTMENT; REPORT OF VALUE. Each life insurance company that is required by Section 425.003 to have securities on deposit with the department shall:

(1) keep records of:

(A) all of the company's outstanding registered policies and annuity contracts in force; and

(B) the net value of those policies and contracts; and

(2) not later than the 15th day after the last day of each calendar month, file with the department a report stating whether the value of the company's securities on deposit is equal to or greater than the aggregate net value of the company's registered policies and annuity contracts outstanding and in force at the end of the preceding calendar month. (V.T.I.C. Art. 3.18, Secs. 2, 3.)

Source Law

Sec. 2. Every life insurance company which is required by this Chapter to have securities on deposit with the State Board of Insurance shall keep records of all of its outstanding registered policies and annuity bonds in force, and of the net value thereof.

Sec. 3. Each life insurance company which is required by this Chapter to have securities on deposit with the State Board of Insurance shall, within fifteen (15) days after the termination of each calendar month, file with said Board a report stating whether or not the value of its securities on deposit is equal to or in excess of the aggregate value of its registered policies and annuity bonds outstanding and

in force at the end of such preceding calendar month.

Revisor's Note

(1) Section 2, V.T.I.C. Article 3.18, refers to a life insurance company that is required by "this Chapter," meaning V.T.I.C. Chapter 3, to have securities on deposit. Although Chapter 3 is revised in several titles throughout this code, the revised law refers to Section 425.003 because that section revises Article 3.17, the part of V.T.I.C. Chapter 3 that requires a life insurance company to have securities on deposit.

(2) Section 3, V.T.I.C. Article 3.18, requires a life insurance company to report whether the securities the company has on deposit equal or exceed the "aggregate value" of the company's registered policies and annuity bonds. The revised law substitutes "aggregate net value" for "aggregate value" because it is clear from the context that "net value" in Section 2, Article 3.18, is a reference to "aggregate net value" as used in Section 1, V.T.I.C. Article 3.17, revised in this chapter in Section 425.003, which contains the substantive requirement that a company deposit securities.

Revised Law

Sec. 425.005. DEPARTMENT DUTIES REGARDING DEPOSITED SECURITIES; INSURANCE COMPANY ACCESS. (a) The department shall keep securities deposited by a life insurance company under Sections 425.002 and 425.003 in a secure safe-deposit, fireproof box or vault in the municipality of, or a municipality near the location of, the company's home office.

(b) The life insurance company's officers may, in accordance with reasonable rules adopted by the commissioner, have access to the securities to detach interest coupons, credit payment, and exchange securities as provided by Section 425.003.

1 (V.T.I.C. Art. 3.18, Sec. 4.)

2 Source Law

3 Sec. 4. The securities deposited under this
4 Chapter by each company shall be placed and kept by the
5 State Board of Insurance in some secure safe-deposit,
6 fireproof box or vault in the city or town in or near
7 where the home office of the company is located. The
8 officers of the company shall have access to such
9 securities for the purpose of detaching interest
10 coupons and crediting payment and exchanging
11 securities as above provided, under such reasonable
12 rules and regulations as the State Board of Insurance
13 may establish.

14 Revisor's Note

15 (1) Section 4, V.T.I.C. Article 3.18, requires
16 certain securities to be "placed and kept" in certain
17 places. The revised law omits the reference to
18 "placed" as unnecessary because a security cannot be
19 "kept" somewhere unless it is first placed there.

20 (2) Section 4, V.T.I.C. Article 3.18, refers to
21 a "city or town." The revised law substitutes
22 "municipality" for "city or town" for the reason
23 stated in Revisor's Note (6) to Section 425.002.

24 (3) Section 4, V.T.I.C. Article 3.18, refers to
25 "rules and regulations." Other provisions revised in
26 this chapter refer only to "regulations" with respect
27 to state law. Throughout this chapter, the revised
28 law, as applicable, omits "regulation," or substitutes
29 "rule" for "regulation," because in this context the
30 terms are synonymous and because under Section
31 311.005(5), Government Code (Code Construction Act), a
32 rule is defined to include a regulation. That
33 definition applies to the revised law.

34 Revised Law

35 Sec. 425.006. ADDITIONAL RESERVES REQUIRED: SUBSTANDARD OR
36 EXTRA HAZARDOUS POLICIES. (a) If a life insurance company engaged
37 in business under the laws of this state has written or assumed
38 risks that are substandard or extra hazardous and has charged more
39 for the policies under which those risks are written or assumed than

1 the company's published premium rates, the commissioner shall, in
2 valuing those policies, compute and charge extra reserves on the
3 policies as necessary because of the extra hazard assumed and the
4 extra premium charged.

5 (b) If the commissioner determines, after notice and
6 hearing, that a particular risk or class of risks is substandard or
7 extra hazardous, a life insurance company may not, after the
8 determination is made, write or assume the particular risk or class
9 of risks unless the company charges an extra premium as necessary
10 because of the extra hazard assumed. (V.T.I.C. Art. 3.29.)

11 Source Law

12 Art. 3.29. If any life insurance company doing
13 business under the laws of this State has written or
14 assumed risks that are sub-standard or extra hazardous
15 and has charged therefor more than its published rates
16 of premium, the Board of Insurance Commissioners shall
17 in valuing such policies compute and charge such extra
18 reserves thereon as is warranted by reason of the extra
19 hazard assumed and the extra premium charged. If the
20 Board of Insurance Commissioners shall find, after
21 notice and hearing, that a particular risk or class of
22 risks is sub-standard or extra hazardous, then and in
23 that event no such company shall thereafter write or
24 assume any such risks unless they charge therefor such
25 extra premium as is warranted by reason of the extra
26 hazard assumed.

27 Revised Law

28 Sec. 425.007. SUBSCRIPTION TO OR UNDERWRITING PURCHASE OR
29 SALE OF SECURITIES OR PROPERTY PROHIBITED; CONTROL OF DISPOSITION
30 OF PROPERTY. (a) A life insurance company organized under the laws
31 of this state may not:

32 (1) subscribe to, or participate in, any underwriting
33 of the purchase or sale of securities or property;

34 (2) enter into a transaction described by Subdivision
35 (1) for a purpose described by Subdivision (1);

36 (3) sell on account of the company jointly with any
37 other person, firm, or corporation; or

38 (4) enter into any agreement to withhold from sale any
39 of the company's property.

40 (b) The disposition of the life insurance company's
41 property must be at all times within the control of the company's

1 board of directors. (V.T.I.C. Art. 3.39a.)

2 Source Law

3 Art. 3.39a. No life insurance company organized
4 under the laws of this state shall subscribe to, or
5 participate in, any underwriting of the purchase or
6 sale of securities or property or enter into any such
7 transaction for such purpose, or sell on account of
8 such company jointly with any other person, firm or
9 corporation, nor shall any such company enter into any
10 agreement to withhold from sale any of its property,
11 but the disposition of its property shall be at all
12 times within the control of its Board of Directors.

13 Revised Law

14 Sec. 425.008. AUTHORIZED INVESTMENTS FOR FOREIGN
15 COMPANIES. A foreign company shall invest the company's assets in:

16 (1) securities or property of the same classes in
17 which the law of this state permits a domestic insurance company to
18 invest; or

19 (2) securities permitted by other law of this state
20 and approved by the commissioner as being of substantially the same
21 grade as securities or property in which a domestic insurance
22 company is permitted to invest. (V.T.I.C. Art. 3.41.)

23 Source Law

24 Art. 3.41. The assets of any "foreign company"
25 shall be invested in securities or property of the same
26 classes permitted by the laws of this State as to
27 "domestic" companies or by other laws of this State in
28 other securities approved by the Board of Insurance
29 Commissioners as being of substantially the same
30 grade.

31 Revised Law

32 Sec. 425.009. STUDENT LOANS. A foreign or domestic life
33 insurance company may make loans to a student enrolled in an
34 institution of higher education if the principal amount of the loan
35 is insured by:

36 (1) the federal government under the Higher Education
37 Act of 1965 (Pub. L. No. 89-329), as amended; or

38 (2) the Texas Guaranteed Student Loan Corporation
39 under Chapter 57, Education Code. (V.T.I.C. Art. 3.41a.)

40 Source Law

41 Art. 3.41a. A foreign or domestic life insurance
42 company may make loans to a student enrolled in an

1 institution of higher education provided that the
2 principal amount of the loans is insured by the federal
3 government pursuant to the provisions of the Federal
4 Higher Education Act of 1965, as amended (P.L. 89-329,
5 as amended), or by the Texas Guaranteed Student Loan
6 Corporation, Section 57.01 et seq., Texas Education
7 Code, as added.

8 Revisor's Note
9 (End of Subchapter)

10 Section 1, V.T.I.C. Article 3.18, provides that
11 "[a]fter the effective date of this Section 1, of this
12 Article," meaning Article 3.18, an insurance company
13 may not register a life insurance policy or annuity
14 contract in the manner "heretofore" authorized by
15 V.T.I.C. Chapter 3. The revised law omits this
16 provision as executed. V.T.I.C. Article 3.18 was
17 amended by Chapter 469, Acts of the 57th Legislature,
18 Regular Session, 1961, which added Section 1 to that
19 article. Before the 1961 amendment, Article 3.18
20 required companies to register certain life insurance
21 policies and annuity contracts with the Board of
22 Insurance Commissioners. The termination of the
23 requirement to register insurance policies and annuity
24 contracts accomplished its purpose when it took effect
25 August 28, 1961, and is thus unnecessary. The omitted
26 law reads:

27 Art. 3.18
28 Sec. 1. After the effective date of
29 this Section 1, of this Article, no policy
30 or annuity bond shall be registered in the
31 manner heretofore authorized by this
32 Chapter.

33 [Sections 425.010-425.050 reserved for expansion]

34 SUBCHAPTER B. STANDARD VALUATION LAW

35 Revised Law

36 Sec. 425.051. SHORT TITLE. This subchapter may be cited as
37 the Standard Valuation Law. (V.T.I.C. Art. 3.28, Sec. 1.)

38 Source Law

39 Art. 3.28
40 Sec. 1. This Article shall be known as the
41 Standard Valuation Law.

Revised Law

Sec. 425.052. DEFINITIONS. (a) In this subchapter, "reserves" means reserve liabilities.

(b) As used in this subchapter:

(1) an "issue year basis" of valuation means a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract; and

(2) a "change in fund basis" of valuation means a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund. (V.T.I.C. Art. 3.28, Secs. 2 (part), 5(c) (part).)

Source Law

Sec. 2. [The State Board of Insurance shall annually value, or cause to be valued, the reserve liabilities] (hereinafter called reserves)

[Sec. 5]

(c) . . .

(1) • • •

(vi) . . . As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

Revised Law

Sec. 425.053. ANNUAL VALUATION OF RESERVES. (a) The department shall annually value or have valued the reserves for all outstanding life insurance policies and annuity and pure endowment contracts of each life insurance company engaged in business in this state. The department may certify the amount of those

1 reserves, specifying the mortality table or tables, rate or rates
2 of interest, and methods, including the net level premium method or
3 another method, used in computing those reserves.

4 (b) In computing reserves under Subsection (a), the
5 department may use group methods and approximate averages for
6 fractions of a year or otherwise.

7 (c) Instead of valuing the reserves as required by
8 Subsection (a) for a foreign or alien company, the department may
9 accept any valuation made by or for the insurance supervisory
10 official of another state or jurisdiction if:

11 (1) the valuation complies with the minimum standard
12 provided by this subchapter; and

13 (2) the official accepts as sufficient and valid for
14 all legal purposes a certificate of valuation made by the
15 department that states the valuation was made in a specified manner
16 according to which the aggregate reserves would be at least as large
17 as they would be if computed in the manner prescribed by the law of
18 that state or jurisdiction. (V.T.I.C. Art. 3.28, Sec. 2 (part).)

19 Source Law

20 Sec. 2. The State Board of Insurance shall
21 annually value, or cause to be valued, the reserve
22 liabilities . . . for all outstanding life insurance
23 policies and annuity and pure endowment contracts of
24 every life insurance company doing business in this
25 state, and may certify the amount of any such reserves,
26 specifying the mortality table or tables, rate or
27 rates of interest, and methods (net level premium
28 method or other) used in the calculation of such
29 reserves. In calculating such reserves, the Board may
30 use group methods and approximate averages for
31 fractions of a year or otherwise. In lieu of the
32 valuation of the reserves herein required of any
33 foreign or alien company, the Board may accept any
34 valuation made, or caused to be made, by the insurance
35 supervisory official of any state or other
36 jurisdiction when such valuation complies with the
37 minimum standard herein provided and if the official
38 of such state or jurisdiction accepts as sufficient
39 and valid for all legal purposes the certificate of
40 valuation of the State Board of Insurance when such
41 certificate states the valuation to have been made in a
42 specified manner according to which the aggregate
43 reserves would be at least as large as if they had been
44 computed in the manner prescribed by the law of that
45 state or jurisdiction.

1 (f) Except as exempted by or as otherwise provided by
2 commissioner rule, a life insurance company shall include in the
3 opinion required by Subsection (b) an opinion that states whether
4 the reserves and related actuarial items held in support of the
5 policies and contracts specified by commissioner rule adequately
6 provide for the company's obligations under the policies and
7 contracts, including the benefits under and expenses associated
8 with the policies and contracts.

9 (g) In making the opinion under Subsection (f), the reserves
10 and related actuarial items are considered in light of the assets
11 held by the life insurance company with respect to the reserves and
12 related actuarial items, including:

13 (1) the investment earnings on the assets; and

14 (2) the considerations anticipated to be received and
15 retained under the policies and contracts.

16 (h) The person who certifies the opinion required by
17 Subsection (b) must make the opinion required by Subsection (f).

18 (i) Rules adopted under this section may exempt life
19 insurance companies that would be exempt from the requirements of
20 this section under the most recently adopted regulation by the
21 National Association of Insurance Commissioners entitled "Model
22 Actuarial Opinion and Memorandum Regulation," or a successor to
23 that regulation, if the commissioner considers the exemption
24 appropriate. (V.T.I.C. Art. 3.28, Secs. 2A(a)(1), (2), (3), (b).)

25 Source Law

26 Sec. 2A. (a) General. (1) In conjunction with
27 the annual statement and in addition to other
28 information required by this article, every life
29 insurance company doing business in this state shall
30 annually submit to the State Board of Insurance the
31 opinion of a qualified actuary as to whether the
32 reserves and related actuarial items held in support
33 of the policies and contracts specified by rule of the
34 Board are computed appropriately, are based on
35 assumptions which satisfy contractual provisions, are
36 consistent with prior reported amounts, and comply
37 with applicable laws of this state. The Board by rule
38 shall define the specific requirements of this opinion
39 and shall include any matters deemed to be necessary to
40 the opinion's scope. For purposes of this subdivision,
41 "qualified actuary" has the meaning assigned by
42 Article 1.11(d) of this code. A person who, before

1 September 1, 1993, satisfied the requirements of the
2 Board to submit an opinion under this subdivision may
3 also submit the opinion required by this subdivision.

4 (2) The opinion required under this
5 section shall apply to all business in force including
6 individual and group health insurance plans, in form
7 and substance as specified by Board rule and
8 acceptable to the commissioner.

9 (3) In the case of an opinion required to
10 be submitted by a foreign or alien company, the
11 commissioner may accept the opinion filed by that
12 company with the insurance supervisory official of
13 another state if the commissioner determines that the
14 opinion filed in the other state reasonably meets the
15 requirements applicable to a company domiciled in this
16 state.

17
18 (b) Actuarial Analysis of Reserves and Assets
19 Supporting Such Reserves. Every life insurance
20 company, except as exempted by or pursuant to rule
21 adopted by the Board, shall also annually include in
22 the opinion required by Subsection (a)(1) of this
23 section, an opinion of the same person who certifies to
24 the opinion under Subsection (a)(1) of this section as
25 to whether the reserves and related actuarial items
26 held in support of the policies and contracts
27 specified by Board rule, when considered in light of
28 the assets held by the company with respect to the
29 reserves and related actuarial items, including but
30 not limited to the investment earnings on the assets
31 and the considerations anticipated to be received and
32 retained under the policies and contracts, make
33 adequate provision for the company's obligations under
34 the policies and contracts, including but not limited
35 to the benefits under and expenses associated with the
36 policies and contracts. The rules adopted by the Board
37 under this section may exempt those companies that
38 would be exempted from the requirements stated in this
39 subsection (b) according to the most recently adopted
40 regulation by the National Association of Insurance
41 Commissioners entitled "Model Actuarial Opinion and
42 Memorandum Regulation" or its successor regulation if
43 the Board considers the exemption appropriate.

44 Revisor's Note

45 Section 2A(b), V.T.I.C. Article 3.28, refers to
46 "including but not limited to." Other provisions
47 revised in this chapter contain similar language.
48 Throughout this chapter, "but not limited to" is
49 omitted as unnecessary because Section 311.005(13),
50 Government Code (Code Construction Act), and Section
51 312.011(19), Government Code, provide that "includes"
52 and "including" are terms of enlargement and not of
53 limitation and do not create a presumption that
54 components not expressed are excluded.

1 provided by Subsection (b), a person who certifies an opinion under
2 Section 425.054 is not liable for damages to a person, other than
3 the life insurance company covered by the opinion, for an act,
4 error, omission, decision, or other conduct with respect to the
5 person's opinion.

6 (b) Subsection (a) does not apply to an administrative
7 penalty imposed under Chapter 84. (V.T.I.C. Art. 3.28, Sec.
8 2A(a)(4).)

9 Source Law

10 (4) A. Except in cases of fraud or wilful
11 misconduct or as provided by Subsection (a)(7)B of
12 this section, a person who certifies to an opinion
13 under this section shall not be liable for damages to a
14 person other than the insurance company covered by the
15 opinion prepared by the certifying person for any act,
16 error, omission, decision, or conduct with respect to
17 the person's opinion.

18 (B) Subsection (a)7A of this section
19 does not apply to a monetary forfeiture imposed under
20 Section 7, Article 1.10, Insurance Code.

21 Revisor's Note

22 (1) Section 2A(a)(4)A, V.T.I.C. Article 3.28,
23 refers to "Subsection (a)(7)B of this section."
24 Section 2A(a)(4)(B), V.T.I.C. Article 3.28, refers to
25 "Subsection (a)7A of this section." Section 2A(a)(7),
26 V.T.I.C. Article 3.28, does not contain a Paragraph
27 (A) or a Paragraph (B). From the context of Section
28 2A(a)(4), it is clear that the references to "(a)(7)"
29 and "(a)7" are typographic errors, and that the
30 intended reference is "(a)(4)." The revised law is
31 drafted accordingly.

32 (2) Section 2A(a)(4)(B), V.T.I.C. Article 3.28,
33 refers to "a monetary forfeiture imposed under Section
34 7, Article 1.10, Insurance Code." Section 2A was
35 enacted by Section 11.101, Chapter 242, Acts of the
36 72nd Legislature, Regular Session, 1991. Section 1.06
37 of that act amended Section 7(a)(3), V.T.I.C. Article
38 1.10, to provide for "a specified monetary forfeiture"
39 not to exceed \$25,000 for a violation or failure to

1 comply with the insurance laws of this state. Section
2 1.07, Chapter 685, Acts of the 73rd Legislature,
3 Regular Session, 1993, amended Section 7(a)(3),
4 V.T.I.C. Article 1.10, by deleting the provision for
5 "a monetary forfeiture" and substituting a reference
6 to "an administrative penalty in accordance with
7 Article 1.10E," revised in 1999 as Chapter 84 of this
8 code. The revised law is drafted accordingly.

9 Revised Law

10 Sec. 425.057. DISCIPLINARY ACTION: COMPANY OR PERSON
11 CERTIFYING OPINION. A company or person that certifies an opinion
12 under Section 425.054 and that violates Section 425.054 or 425.055
13 or rules adopted under those sections is subject to disciplinary
14 action under Chapter 82. (V.T.I.C. Art. 3.28, Sec. 2A(a)(5).)

15 Source Law

16 (5) A company or a person who certifies to
17 an opinion under this section and that fails to comply
18 with or violates this section or rules adopted by the
19 Board pursuant to this section is subject to
20 disciplinary action under Section 7, Article 1.10,
21 Insurance Code.

22 Revisor's Note

23 Section 2A(a)(5), V.T.I.C. Article 3.28, refers
24 to a company or person that "fails to comply with or
25 violates" Section 2A. The revised law omits the
26 reference to "fails to comply with" as unnecessary
27 because the meaning of that phrase is included in the
28 meaning of "violates."

29 Revised Law

30 Sec. 425.058. VALUATION OF POLICY OR CONTRACT: GENERAL
31 RULE. (a) Except as otherwise provided by Section 425.059,
32 425.060, 425.061, 425.062, or 425.063, the minimum standard for the
33 valuation of an outstanding life insurance policy or annuity or
34 pure endowment contract issued by a life insurance company on or
35 after the date on which Chapter 1105 applies to policies issued by
36 the company, as determined under Section 1105.002(a) or (b), is the

1 commissioners reserve valuation method described by Sections
2 425.064, 425.065, and 425.068, computed using the table prescribed
3 by this section and with interest at 3-1/2 percent or at the
4 following rate, if applicable:

5 (1) in the case of a policy or contract issued on or
6 after June 14, 1973, and before August 29, 1977, other than an
7 annuity or pure endowment contract, four percent;

8 (2) in the case of a single premium life insurance
9 policy issued on or after August 29, 1977, 5-1/2 percent; or

10 (3) in the case of a life insurance policy issued on or
11 after August 29, 1977, other than a single premium life insurance
12 policy, 4-1/2 percent.

13 (b) Except as provided by Subsection (c), for an ordinary
14 life insurance policy issued on the standard basis, excluding any
15 disability or accidental death benefits in the policy, the
16 applicable table is the Commissioners 1941 Standard Ordinary
17 Mortality Table, if the policy was issued before the date on which
18 Section 1105.152 would apply to the policy, as determined under
19 Section 1105.152(a) or (b), or the Commissioners 1958 Standard
20 Ordinary Mortality Table, if Section 1105.152 applies to the
21 policy. For a policy that is issued to insure a female risk:

22 (1) a modified net premium or present value for a
23 policy issued before August 29, 1977, may be computed according to
24 an age not more than three years younger than the insured's actual
25 age; and

26 (2) a modified net premium or present value for a
27 policy issued on or after August 29, 1977, may be computed according
28 to an age not more than six years younger than the insured's actual
29 age.

30 (c) For an ordinary life insurance policy issued on the
31 standard basis, excluding any disability or accidental death
32 benefits in the policy, and to which Subchapter B, Chapter 1105,
33 applies, the applicable table is:

34 (1) the Commissioners 1980 Standard Ordinary

1 Mortality Table;

2 (2) at the insurer's option for one or more specified
3 life insurance plans, the Commissioners 1980 Standard Ordinary
4 Mortality Table with Ten-Year Select Mortality Factors; or

5 (3) any ordinary mortality table adopted after 1980 by
6 the National Association of Insurance Commissioners that is
7 approved by commissioner rule for use in determining the minimum
8 standard valuation for a policy to which this subdivision applies.

9 (d) For an industrial life insurance policy issued on the
10 standard basis, excluding any disability or accidental death
11 benefits in the policy, the applicable table is:

12 (1) the 1941 Standard Industrial Mortality Table, if
13 the policy was issued before the date on which Section 1105.153
14 would apply to the policy as determined under Section 1105.153(a)
15 or (b); or

16 (2) if Section 1105.153 applies to the policy:

17 (A) the Commissioners 1961 Standard Industrial
18 Mortality Table; or

19 (B) any industrial mortality table adopted after
20 1980 by the National Association of Insurance Commissioners that is
21 approved by commissioner rule for use in determining the minimum
22 standard of valuation for a policy to which this subdivision
23 applies.

24 (e) For an individual annuity or pure endowment contract,
25 excluding any disability or accidental death benefits in the
26 policy, the applicable table is the 1937 Standard Annuity Mortality
27 Table, or at the insurer's option, the Annuity Mortality Table for
28 1949, Ultimate, or a modification of either table that is approved
29 by the commissioner.

30 (f) For a group annuity or pure endowment contract,
31 excluding any disability or accidental death benefits in the
32 policy, the applicable table is:

33 (1) the Group Annuity Mortality Table for 1951;

34 (2) a modification of that table approved by the

1 commissioner; or

2 (3) at the insurance company's option, a table or a
3 modification of a table prescribed for an individual annuity or
4 pure endowment contract by Subsection (e).

5 (g) For total and permanent disability benefits in or
6 supplementary to an ordinary policy or contract, the applicable
7 tables are:

8 (1) for a policy or contract issued on or after January
9 1, 1966:

10 (A) the tables of Period 2 disablement rates and
11 the 1930 to 1950 termination rates of the 1952 Disability Study of
12 the Society of Actuaries, with due regard to the type of benefit; or

13 (B) any table of disablement rates and
14 termination rates adopted after 1980 by the National Association of
15 Insurance Commissioners that are approved by commissioner rule for
16 use in determining the minimum standard of valuation for a policy to
17 which this subdivision applies;

18 (2) for a policy or contract issued on or after January
19 1, 1961, and before January 1, 1966:

20 (A) a table described by Subdivision (1); or

21 (B) at the insurance company's option, the Class
22 (3) Disability Table (1926); or

23 (3) for a policy issued before January 1, 1961, the
24 Class (3) Disability Table (1926).

25 (h) A table described by Subsection (g) must, for an active
26 life, be combined with a mortality table permitted for computing
27 the reserves for a life insurance policy.

28 (i) For accidental death benefits in or supplementary to a
29 policy, the applicable table is:

30 (1) for a policy issued on or after January 1, 1966:

31 (A) the 1959 Accidental Death Benefits Table; or

32 (B) any accidental death benefits table adopted
33 after 1980 by the National Association of Insurance Commissioners
34 that is approved by commissioner rule for use in determining the

1 minimum standard of valuation for a policy to which this
2 subdivision applies;

3 (2) for a policy issued on or after January 1, 1961,
4 and before January 1, 1966:

5 (A) a table described by Subdivision (1); or

6 (B) at the insurance company's option, the
7 Inter-Company Double Indemnity Mortality Table; or

8 (3) for a policy issued before January 1, 1961, the
9 Inter-Company Double Indemnity Mortality Table.

10 (j) A table described by Subsection (i) must be combined
11 with a mortality table permitted for computing the reserves for a
12 life insurance policy.

13 (k) For group life insurance, life insurance issued on the
14 substandard basis and other special benefits, the applicable table
15 is a table approved by the commissioner.

16 (l) Notwithstanding any other law, the minimum reserve
17 requirements applicable to a policy issued under Chapter 1153 are
18 met if, in the aggregate, the reserves are maintained at 100 percent
19 of the 1980 Commissioner's Standard Ordinary Mortality Table, with
20 interest that does not exceed 5.5 percent. This subsection expires
21 September 1, 2013. (V.T.I.C. Art. 3.28, Secs. 3 (part), (a), (b),
22 (c), (d), (e), (f), (g), (h).)

23 Source Law

24 Sec. 3. . . . Except as otherwise provided in
25 Sections 4 and 5 of this article, the minimum standard
26 for the valuation of all such policies and contracts
27 issued on or after the operative date of Article 3.44a
28 (the Standard Nonforfeiture Law for Life Insurance)
29 shall be the commissioners reserve valuation methods
30 defined in Sections 6, 7, and 10 of this article, three
31 and one-half per cent (3 1/2%) interest; in the case of
32 policies and contracts, other than annuity and pure
33 endowment contracts, issued on or after June 14, 1973,
34 four per cent (4%) interest for such policies issued
35 prior to August 29, 1977; or five and one-half per cent
36 (5 1/2%) interest for single premium life insurance
37 policies and four and one-half per cent (4 1/2%)
38 interest for all other such policies issued on and
39 after August 29, 1977, and the following tables:

40 (a) For all ordinary policies of life
41 insurance issued on the standard basis, excluding any
42 disability and accidental death benefits in such
43 policies, the Commissioners 1941 Standard Ordinary
44 Mortality Table for such policies issued prior to the

operative date of Section 6 of the Standard Nonforfeiture Law for Life Insurance, as amended, the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after the operative date of Section 6 of the Standard Nonforfeiture Law for Life Insurance, as amended, and prior to the operative date of Section 8 of the Standard Nonforfeiture Law for Life Insurance, as amended, provided that for any category of such policies issued on female risks, all modified net premiums and present values referred to in this Act may be calculated according to an age not more than three years younger than the actual age of the insured for policies issued prior to August 29, 1977 and not more than six years younger than the actual age of the insured for policies issued on and after August 29, 1977; and for such policies issued on or after the operative date of Section 8 of the Standard Nonforfeiture Law for Life Insurance, as amended, (i) the Commissioners 1980 Standard Ordinary Mortality Table, or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or (iii) any ordinary mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation promulgated by the State Board of Insurance for use in determining the minimum standard valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of Section 7 of the Standard Nonforfeiture Law for Life Insurance, as amended, and for such policies issued on or after such operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation promulgated by the State Board of Insurance for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table, or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the State Board of Insurance.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951, any modification of such table approved by the State Board of Insurance, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates adopted after 1980 by the National Association of Insurance Commissioners that are approved by regulation promulgated by the State Board of Insurance

1 for use in determining the minimum standard of
2 valuation for such policies; for policies or
3 contracts issued on or after January 1, 1961, and prior
4 to January 1, 1966, either such tables or, at the
5 option of the company, the Class (3) Disability Table
6 (1926); and for policies issued prior to January 1,
7 1961, the Class (3) Disability Table (1926). Any such
8 table shall, for active lives, be combined with a
9 mortality table permitted for calculating the reserves
10 for life insurance policies.

11 (f) For accidental death benefits in or
12 supplementary to policies, for policies issued on or
13 after January 1, 1966, the 1959 Accidental Death
14 Benefits Table or any accidental death benefits table
15 adopted after 1980 by the National Association of
16 Insurance Commissioners that is approved by regulation
17 promulgated by the State Board of Insurance for use in
18 determining the minimum standard of valuation for such
19 policies; for policies issued on or after January 1,
20 1961, and prior to January 1, 1966, either such table
21 or, at the option of the company, the Inter-Company
22 Double Indemnity Mortality Table; and for policies
23 issued prior to January 1, 1961, the Inter-Company
24 Double Indemnity Mortality Table. Either table shall
25 be combined with a mortality table permitted for
26 calculating the reserves for life insurance policies.

27 (g) For group life insurance, life
28 insurance issued on the substandard basis and other
29 special benefits, such tables as may be approved by the
30 State Board of Insurance.

31 (h) Notwithstanding any other law, the
32 minimum reserve requirements applicable to a policy
33 issued under Article 3.53 of this code are met if, in
34 aggregate, the reserves are maintained at 100 percent
35 of the 1980 Commissioner's Standard Ordinary Mortality
36 Table, with interest not to exceed 5.5 percent. This
37 subsection expires September 1, 2013.

38 Revisor's Note

39 (1) Section 3, V.T.I.C. Article 3.28, provides
40 for the minimum standard for the valuation of all life
41 insurance policies and contracts "issued on or after
42 the operative date of Article 3.44a (the Standard
43 Nonforfeiture Law for Life Insurance)." Similar
44 references to "the operative date" of V.T.I.C. Article
45 3.44a appear throughout the source law for this
46 subchapter.

47 V.T.I.C. Article 3.44a was codified as Chapter
48 1105 of this code by Chapter 1419, Acts of the 77th
49 Legislature, Regular Session, 2001. Section 13,
50 V.T.I.C. Article 3.44a, which defined the "operative
51 date" of that article, is codified as Section 1105.002
52 of this code. Section 1105.002 omits the reference to

1 "the operative date" of the law and substitutes a clear
2 statement of the law's applicability to certain
3 policies. In accordance with Chapter 1105, the
4 revised law in this subchapter, for purposes of
5 describing the policies and contracts to which a
6 particular minimum standard of valuation applies,
7 omits references to "the operative date" and
8 substitutes language consistent with Section
9 1105.002.

10 (2) Section 3(a), V.T.I.C. Article 3.28,
11 provides for the use of a specified mortality table for
12 computing the valuation of all life insurance policies
13 and contracts "issued prior to the operative date of
14 Section 6 of the Standard Nonforfeiture Law for Life
15 Insurance, as amended" (V.T.I.C. Article 3.44a) and
16 for the use of a different table for life insurance
17 policies "issued on or after the operative date of
18 Section 6 of the Standard Nonforfeiture Law for Life
19 Insurance, as amended." Section 3(a) contains similar
20 references to "the operative date of Section 8 of the
21 Standard Nonforfeiture Law for Life Insurance, as
22 amended." Section 3(b), V.T.I.C. Article 3.28, refers
23 to policies issued "prior to the operative date of
24 Section 7 of the Standard Nonforfeiture Law for Life
25 Insurance, as amended," and to policies issued "on or
26 after such operative date."

27 As stated in Revisor's Note (1) to this section,
28 V.T.I.C. Article 3.44a was codified as Chapter 1105 of
29 this code. Section 6, Article 3.44a, is codified as
30 Section 1105.152 of this code; Section 7, Article
31 3.44a, is codified as Section 1105.153 of this code;
32 Section 8, Article 3.44a, is codified as Subchapter B,
33 Chapter 1105 of this code. Each of those provisions
34 omits the reference to "the operative date" of the law

1 and substitutes a clear statement of the law's
2 applicability to certain policies. In accordance with
3 Chapter 1105, the revised law in this subchapter, for
4 purposes of prescribing the mortality table used in
5 computing the valuation of certain policies, omits
6 references to "the operative date" and substitutes
7 language consistent with Chapter 1105.

8 Throughout this chapter, the revised law omits
9 references to "as amended" with respect to state
10 statutes because under Section 311.027, Government
11 Code (Code Construction Act), applicable to the
12 revised law, unless expressly provided otherwise, a
13 reference to a statute applies to all reenactments,
14 revisions, and amendments of the statute.

15 Revised Law

16 Sec. 425.059. VALUATION OF CERTAIN ANNUITIES AND PURE
17 ENDOWMENT CONTRACTS. (a) This section applies to an individual
18 annuity or pure endowment contract issued on or after January 1,
19 1979, and an annuity or pure endowment purchased on or after January
20 1, 1979, under a group annuity or pure endowment contract. This
21 section also applies to an annuity or pure endowment contract
22 issued by an insurer after the date specified in a written notice:

23 (1) that was filed with the State Board of Insurance
24 after June 14, 1973, but before January 1, 1979; and

25 (2) under which the insurance company filing the
26 notice elected to comply before January 1, 1979, with former
27 Section 4, Article 3.28, with respect to individual or group
28 annuities and pure endowment contracts as specified by the company
29 in the notice.

30 (b) Except as provided by Section 425.060, 425.061,
31 425.062, or 425.063, the minimum standard for the valuation of an
32 individual or group annuity or pure endowment contract, excluding
33 any disability or accidental death benefits in the contract, is the
34 commissioners reserve valuation method described by Sections

1 425.064 and 425.065, computed using the table prescribed by this
2 section and with interest at the following interest rate, as
3 applicable:

4 (1) for an individual annuity or pure endowment
5 contract issued before August 29, 1977, other than an individual
6 single premium immediate annuity contract, four percent;

7 (2) for an individual single premium immediate annuity
8 contract issued before August 29, 1977, six percent;

9 (3) for an individual annuity or pure endowment
10 contract issued on or after August 29, 1977, other than an
11 individual single premium immediate annuity contract or an
12 individual single premium deferred annuity or pure endowment
13 contract, 4-1/2 percent;

14 (4) for an individual single premium immediate annuity
15 contract issued on or after August 29, 1977, 7-1/2 percent;

16 (5) for an individual single premium deferred annuity
17 or pure endowment contract issued on or after August 29, 1977, 5-1/2
18 percent;

19 (6) for an annuity or pure endowment purchased before
20 August 29, 1977, under a group annuity or pure endowment contract,
21 six percent; or

22 (7) for an annuity or pure endowment purchased on or
23 after August 29, 1977, under a group annuity or pure endowment
24 contract, 7-1/2 percent.

25 (c) For an individual annuity or pure endowment contract
26 issued before August 29, 1977, the applicable table is:

27 (1) the 1971 Individual Annuity Mortality Table; or

28 (2) a modification of that table approved by the
29 commissioner.

30 (d) For an individual annuity or pure endowment contract
31 issued on or after August 29, 1977, including an individual single
32 premium immediate annuity contract, the applicable table is:

33 (1) the 1971 Individual Annuity Mortality Table;

34 (2) an individual annuity mortality table adopted

1 after 1980 by the National Association of Insurance Commissioners
2 that is approved by the commissioner by rule for use in determining
3 the minimum standard of valuation for a specified type of contract
4 to which this subsection applies; or

5 (3) a modification of one of those tables approved by
6 the commissioner.

7 (e) For an annuity or pure endowment purchased before August
8 29, 1977, under a group annuity or pure endowment contract, the
9 applicable table is:

10 (1) the 1971 Group Annuity Mortality Table; or

11 (2) a modification of that table approved by the
12 commissioner.

13 (f) For an annuity or pure endowment purchased on or after
14 August 29, 1977, under a group annuity or pure endowment contract,
15 the applicable table is:

16 (1) the 1971 Group Annuity Mortality Table;

17 (2) a group annuity mortality table adopted after 1980
18 by the National Association of Insurance Commissioners that is
19 approved by the commissioner by rule for use in determining the
20 minimum standard of valuation for an annuity or pure endowment to
21 which this subsection applies; or

22 (3) a modification of one of those tables approved by
23 the commissioner. (V.T.I.C. Art. 3.28, Sec. 4.)

24 Source Law

25 Sec. 4. Except as provided in Section 5 of this
26 article, the minimum standard for the valuation of all
27 individual annuity and pure endowment contracts issued
28 on or after the operative date of this Section 4, as
29 defined herein, and for all annuities and pure
30 endowments purchased on or after such operative date
31 under group annuity and pure endowment contracts shall
32 be the commissioners reserve valuation methods defined
33 in Sections 6 and 7 of this article and the following
34 tables and interest rates:

35 (a) For individual annuity and pure
36 endowment contracts issued prior to August 29, 1977,
37 excluding any disability and accidental death benefits
38 in such contracts, the 1971 Individual Annuity
39 Mortality Table, or any modification of this table
40 approved by the State Board of Insurance, and six per
41 cent (6%) interest for single premium immediate
42 annuity contracts, and four per cent (4%) interest for
43 all other individual annuity and pure endowment

1 contracts.

2 (b) For individual single premium
3 immediate annuity contracts issued on or after August
4 29, 1977, excluding any disability and accidental
5 death benefits in such contracts, the 1971 Individual
6 Annuity Mortality Table or any individual annuity
7 mortality table adopted after 1980 by the National
8 Association of Insurance Commissioners that is
9 approved by regulation promulgated by the State Board
10 of Insurance for use in determining the minimum
11 standard of valuation for such contracts, or any
12 modification of these tables approved by the State
13 Board of Insurance, and seven and one-half per cent (7
14 1/2%) interest.

15 (c) For individual annuity and pure
16 endowment contracts issued on or after August 29,
17 1977, other than single premium immediate annuity
18 contracts, excluding any disability and accidental
19 death benefits in such contracts, the 1971 Individual
20 Annuity Mortality Table or any individual annuity
21 mortality table adopted after 1980 by the National
22 Association of Insurance Commissioners that is
23 approved by regulation promulgated by the State Board
24 of Insurance for use in determining the minimum
25 standard of valuation for such contracts, or any
26 modification of these tables approved by the State
27 Board of Insurance, and five and one-half per cent (5
28 1/2%) interest for single premium deferred annuity and
29 pure endowment contracts and four and one-half per
30 cent (4 1/2%) interest for all other such individual
31 annuity and pure endowment contracts.

32 (d) For all annuities and pure endowments
33 purchased prior to August 29, 1977, under group
34 annuity and pure endowment contracts, excluding any
35 disability and accidental death benefits purchased
36 under such contracts, the 1971 Group Annuity Mortality
37 Table, or any modification of this table approved by
38 the State Board of Insurance, and six per cent (6%)
39 interest.

40 (e) For all annuities and pure endowments
41 purchased on or after August 29, 1977, under group
42 annuity and pure endowment contracts, excluding any
43 disability and accidental death benefits purchased
44 under such contracts, the 1971 Group Annuity Mortality
45 Table or any group annuity mortality table adopted
46 after 1980 by the National Association of Insurance
47 Commissioners that is approved by regulation
48 promulgated by the State Board of Insurance for use in
49 determining the minimum standard of valuation for such
50 annuities and pure endowments, or any modification of
51 these tables approved by the State Board of Insurance,
52 and seven and one-half per cent (7 1/2%) interest.

53 After June 14, 1973, any company may file with the
54 State Board of Insurance a written notice of its
55 election to comply with the provisions of this section
56 after a specified date before January 1, 1979, which
57 shall be the operative date of this section for such
58 company; provided, a company may elect a different
59 operative date for individual annuity and pure
60 endowment contracts from that elected for group
61 annuity and pure endowment contracts. If a company
62 makes no such election, the operative date of this
63 section for such company shall be January 1, 1979.

64 Revised Law

65 Sec. 425.060. APPLICABILITY OF CALENDAR YEAR STATUTORY

1 VALUATION INTEREST RATES. The calendar year statutory valuation
2 interest rates as defined by Sections 425.061, 425.062, and 425.063
3 are the interest rates used in determining the minimum standard for
4 the valuation of:

5 (1) a life insurance policy to which Subchapter B,
6 Chapter 1105, applies;

7 (2) an individual annuity or pure endowment contract
8 issued on or after January 1, 1982;

9 (3) an annuity or pure endowment purchased on or after
10 January 1, 1982, under a group annuity or pure endowment contract;
11 or

12 (4) the net increase, if any, in a calendar year after
13 January 1, 1982, in amounts held under a guaranteed interest
14 contract. (V.T.I.C. Art. 3.28, Sec. 5(a).)

15 Source Law

16 Sec. 5. (a) Applicability of This Section

17 (1) The calendar year statutory valuation
18 interest rates as defined in this Section shall be the
19 interest rates used in determining the minimum
20 standard for valuation of:

21 (A) all life insurance policies
22 issued in a particular calendar year on or after the
23 operative date of Section 8 of the Standard
24 Nonforfeiture Law for Life Insurance;

25 (B) all individual annuity and pure
26 endowment contracts issued in a particular calendar
27 year on or after January 1, 1982;

28 (C) all annuities and pure endowments
29 purchased in a particular calendar year on or after
30 January 1, 1982, under group annuity and pure
31 endowment contracts; and

32 (D) the net increase, if any, in a
33 particular calendar year after January 1, 1982, in
34 amounts held under guaranteed interest contracts.

35 Revised Law

36 Sec. 425.061. COMPUTATION OF CALENDAR YEAR STATUTORY
37 VALUATION INTEREST RATE: GENERAL RULE. (a) For purposes of
38 Subsection (b):

39 (1) R1 is the lesser of R or .09;

40 (2) R2 is the greater of R or .09;

41 (3) R is the reference interest rate determined under
42 Section 425.063; and

43 (4) W is the weighting factor determined under Section

1 425.062.

2 (b) The calendar year statutory valuation interest rate
3 ("I") is determined as provided by this section, with the results
4 rounded to the nearest one-quarter of one percent:

5 (1) for life insurance:

6
$$I = .03 + W(R1 - .03) + (W/2)(R2 - .09); \text{ and}$$

7 (2) for a single premium immediate annuity or annuity
8 benefits involving life contingencies arising from another annuity
9 with a cash settlement option or from a guaranteed interest
10 contract with a cash settlement option, or for an annuity or
11 guaranteed interest contract without a cash settlement option, or
12 for an annuity or guaranteed interest contract with a cash
13 settlement option that is valued on a change in fund basis:

14
$$I = .03 + W(R - .03).$$

15 (c) For an annuity or guaranteed interest contract with a
16 cash settlement option that is valued on an issue year basis, other
17 than an annuity or contract described by Subsection (b)(2):

18 (1) the formula prescribed by Subsection (b)(1)
19 applies to an annuity or guaranteed interest contract with a
20 guarantee duration determined under Section 425.062(f) greater
21 than 10 years; and

22 (2) the formula prescribed by Subsection (b)(2)
23 applies to an annuity or guaranteed interest contract with a
24 guarantee duration determined under Section 425.062(f) of 10 years
25 or less.

26 (d) Notwithstanding Subsections (b) and (c), if the
27 calendar year statutory valuation interest rate for a life
28 insurance policy issued in a calendar year as determined under
29 Subsection (b) or (c), as applicable, would differ from the
30 corresponding actual rate for similar policies issued in the
31 preceding calendar year by less than one-half of one percent, the
32 calendar year statutory valuation interest rate for the policy is
33 the corresponding actual rate for the preceding calendar year. For
34 purposes of this subsection, the calendar year statutory valuation

1 interest rate for a life insurance policy issued in a calendar year
2 is determined for 1980 using the reference interest rate defined
3 for 1979, and is determined for each subsequent calendar year
4 regardless of whether Subchapter B, Chapter 1105, applies to the
5 policy. (V.T.I.C. Art. 3.28, Sec. 5(b).)

6 Source Law

7 (b) Calendar Year Statutory Valuation Interest
8 Rates

9 (1) The calendar year statutory valuation
10 interest rates, "I," shall be determined as follows
11 and the results rounded to the nearer one-fourth of one
12 per cent (1/4 of 1%):

13 (A) For life insurance,

14
$$I = .03 + W(R1 - .03) + W/2(R2 - .09).$$

15 (B) For single premium immediate
16 annuities and for annuity benefits involving life
17 contingencies arising from other annuities with cash
18 settlement options and from guaranteed interest
19 contracts with cash settlement options,

20
$$I = .03 + W(R - .03)$$

21 where R1 is the lesser of R and .09,

22 R2 is the greater of R and .09,

23 R is the reference interest rate defined in this
24 section, and

25 W is the weighting factor defined in this section.

26 (C) For other annuities with cash
27 settlement options and guaranteed interest contracts
28 with cash settlement options, valued on an issue year
29 basis, except as stated in Paragraph (B) of
30 Subdivision (1) of Subsection (b) of this section, the
31 formula for life insurance stated in Paragraph (A) of
32 Subdivision (1) of Subsection (b) of this section
33 shall apply to annuities and guaranteed interest
34 contracts with guarantee durations in excess of 10
35 years and the formula for single premium immediate
36 annuities stated in Paragraph (B) of Subdivision (1)
37 of Subsection (b) of this section shall apply to
38 annuities and guaranteed interest contracts with
39 guarantee duration of 10 years or less.

40 (D) For other annuities with no cash
41 settlement options and for guaranteed interest
42 contracts with no cash settlement options, the formula
43 for single premium immediate annuities stated in
44 Paragraph (B) of Subdivision (1) of Subsection (b) of
45 this section shall apply.

46 (E) For other annuities with cash
47 settlement options and guaranteed interest contracts
48 with cash settlement options, valued on a change in
49 fund basis, the formula for single premium immediate
50 annuities stated in Paragraph (B) of Subdivision (1)
51 of Subsection (b) of this section shall apply.

52 (2) However, if the calendar year
53 statutory valuation interest rate for any life
54 insurance policies issued in any calendar year
55 determined without reference to this sentence differs
56 from the corresponding actual rate for similar
57 policies issued in the immediately preceding calendar
58 year by less than one-half of one per cent (1/2 of 1%),
59 the calendar year statutory valuation interest rate
60 for such life insurance policies shall be equal to the
61 corresponding actual rate for the immediately

preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when Section 8 of the Standard Nonforfeiture Law for Life Insurance becomes operative.

Revisor's Note

Section 5(b)(2), V.T.I.C. Article 3.28, refers to the "immediately preceding calendar year." Similar provisions elsewhere in the source law for this chapter contain similar references. Throughout this chapter, the revised law omits "immediately" as unnecessary. The "preceding" means the "immediately preceding."

Revised Law

Sec. 425.062. WEIGHTING FACTORS. (a) This section prescribes the weighting factors referred to in the formulas prescribed by Section 425.061.

(b) The weighting factor for a life insurance policy is determined by the following table:

Guarantee Duration (Years)	Weighting Factor
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

(c) For purposes of Subsection (b), the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to life insurance plans with premium rates or nonforfeiture values, or both, that are guaranteed in the original policy.

(d) The weighting factor for a single premium immediate annuity or for annuity benefits involving life contingencies arising from another annuity with a cash settlement option or from a guaranteed interest contract with a cash settlement option is .80.

(e) The weighting factor for an annuity or a guaranteed interest contract, other than an annuity or contract to which

Subsection (d) applies, is determined by the following tables:

(1) For an annuity or guaranteed interest contract that is valued on an issue year basis:

Guarantee Duration (Years)		Weighting Factor for Plan Type		
		A	B	C
5 or less:		.80	.60	.50
More than 5, but not more than 10:		.75	.60	.50
More than 10, but not more than 20:		.65	.50	.45
More than 20:		.45	.35	.35

(2) For an annuity or guaranteed interest contract that is valued on a change in fund basis, the factors prescribed by Subdivision (1) increased by:

Plan Type		
A	B	C
.15	.25	.05

(3) For an annuity or guaranteed interest contract that is valued on an issue year basis that does not guarantee interest on considerations received more than one year after issue or purchase, other than an annuity or contract that does not have a cash settlement option, or an annuity or guaranteed interest contract that is valued on a change in fund basis that does not guarantee interest rates on considerations received more than 12 months after the valuation date, the factors prescribed by Subdivision (1) or determined under Subdivision (2), as appropriate, increased by:

Plan Type		
A	B	C
.05	.05	.05

(f) For purposes of Subsection (e):

(1) for an annuity or guaranteed interest contract with a cash settlement option, the guarantee duration is the number of years for which the contract guarantees interest rates greater

1 than the calendar year statutory valuation interest rate for life
2 insurance policies with guarantee duration greater than 20 years;
3 and

4 (2) for an annuity or guaranteed interest contract
5 without a cash settlement option, the guarantee duration is the
6 number of years from the issue or purchase date to the date annuity
7 benefits are scheduled to begin.

8 (g) For purposes of Subsection (e):

9 (1) a policy is a "Plan Type A" policy if:

10 (A) the policyholder may withdraw funds at any
11 time, but only:

12 (i) with an adjustment to reflect changes
13 in interest rates or asset values after the insurance company
14 receives the funds;

15 (ii) without an adjustment described by
16 Subparagraph (i), provided that the withdrawal is in installments
17 over five years or more; or

18 (iii) as an immediate life annuity; or

19 (B) the policyholder is not permitted to withdraw
20 funds at any time;

21 (2) a policy is a "Plan Type B" policy if:

22 (A) before the expiration of the interest rate
23 guarantee:

24 (i) the policyholder may withdraw funds,
25 but only:

26 (a) with an adjustment to reflect
27 changes in interest rates or asset values after the insurance
28 company receives the funds; or

29 (b) without an adjustment described
30 by Subsubparagraph (a), provided that the withdrawal is in
31 installments over five years or more; or

32 (ii) the policyholder is not permitted to
33 withdraw funds; and

34 (B) on the expiration of the interest rate

guarantee, the policyholder may withdraw funds in a single sum or in installments over less than five years, without an adjustment described by Paragraph (A)(i); and

(3) a policy is a "Plan Type C" policy if the policyholder may withdraw funds before the expiration of the interest rate guarantee in a single sum or in installments over less than five years:

(A) without an adjustment to reflect changes in interest rates or asset values after the insurance company receives the funds; or

(B) subject only to a fixed surrender charge that is a percentage of the fund stipulated in the contract.

(h) An insurance company may elect to value an annuity or guaranteed interest contract with a cash settlement option on an issue year basis or on a change in fund basis. A company must value an annuity or guaranteed interest contract without a cash settlement option on an issue year basis. (V.T.I.C. Art. 3.28, Sec. 5(c) (part).)

Source Law

(c) Weighting Factors

(1) The weighting factors referred to in the formulas stated above are given in the following tables:

(A) Weighting Factors for Life Insurance:	
Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(B) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

(C) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in Paragraph (B) of Subdivision (1) of Subsection (c) of this section, shall be as specified in tables (i), (ii), and (iii) below, according to the rules and definitions in (iv), (v), and (vi) below:

(i) For annuities and

guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

(ii) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (i) above increased by:

	Plan Type		
	A	B	C
	.15	.25	.05

(iii) For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by:

	Plan Type		
	A	B	C
	.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables (i), (ii), and (iii) is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of funds by the insurance company, or (2) without such adjustment but in installments over five years or more, or (3) as an immediate life annuity, or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, the policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without such adjustment but in installments over five years or more, or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan Type C: Policyholder

1 may withdraw funds before expiration of interest rate
2 guarantee in a single sum or installments over less
3 than five years either (1) without adjustment to
4 reflect changes in interest rates or asset values
5 since receipt of the funds by the insurance company, or
6 (2) subject only to a fixed surrender charge
7 stipulated in the contract as a percentage of the fund.

8 (vi) A company may elect to
9 value guaranteed interest contracts with cash
10 settlement options and annuities with cash settlement
11 options on either an issue year basis or on a change in
12 fund basis. Guaranteed interest contracts with no
13 cash settlement options and other annuities with no
14 cash settlement options must be valued on an issue year
15 basis. . . .

16 Revised Law

17 Sec. 425.063. REFERENCE INTEREST RATE. (a) In this
18 section, "Moody's Corporate Bond Yield Average" means the Moody's
19 Corporate Bond Yield Average--Monthly Average Corporates, as
20 published by Moody's Investors Service, Inc.

21 (b) Except as provided by Subsection (g), the reference
22 interest rate for purposes of Section 425.061 is determined as
23 provided by Subsections (c)-(f).

24 (c) The reference interest rate for a life insurance policy
25 is the lesser of the average over a period of 36 months or the
26 average over a period of 12 months, ending on June 30 of the
27 calendar year preceding the year of issue, of the Moody's Corporate
28 Bond Yield Average.

29 (d) The reference interest rate is the average over a period
30 of 12 months, ending on June 30 of the calendar year of issue or year
31 of purchase, of the Moody's Corporate Bond Yield Average for:

32 (1) a single premium immediate annuity or annuity
33 benefits involving life contingencies arising from another annuity
34 with a cash settlement option or from a guaranteed interest
35 contract with a cash settlement option;

36 (2) an annuity or guaranteed interest contract with a
37 cash settlement option, other than an annuity or contract described
38 by Subdivision (1), that is valued on an issue year basis and has a
39 guarantee duration as determined under Section 425.062(f) of 10
40 years or less; or

41 (3) an annuity or guaranteed interest contract without

1 a cash settlement option.

2 (e) The reference interest rate is the lesser of the average
3 over a period of 36 months or the average over a period of 12 months,
4 ending on June 30 of the calendar year of issue or purchase, of the
5 Moody's Corporate Bond Yield Average for an annuity or guaranteed
6 interest contract with a cash settlement option, other than an
7 annuity or contract described by Subsection (d)(1), that is valued
8 on an issue year basis and has a guarantee duration as determined
9 under Section 425.062(f) greater than 10 years.

10 (f) The reference interest rate is the average over a period
11 of 12 months, ending on June 30 of the calendar year of the change in
12 the fund, of the Moody's Corporate Bond Yield Average, for an
13 annuity or guaranteed interest contract with a cash settlement
14 option, other than an annuity or contract described by Subsection
15 (d)(1), that is valued on a change in fund basis.

16 (g) At least annually, the commissioner shall:

17 (1) determine whether the reference interest rates
18 prescribed by Subsections (c), (d), (e), and (f) continue to be a
19 reasonably accurate approximation of the average yield achieved
20 from purchases in the United States in publicly quoted markets of
21 investment grade fixed term and fixed interest corporate
22 obligations for the periods referenced in Subsection (c), (d), (e),
23 or (f), as applicable; and

24 (2) if the commissioner determines that a reference
25 interest rate prescribed by Subsection (c), (d), (e), or (f) is not
26 a reasonably accurate approximation of the average yield described
27 by Subdivision (1), adopt rules in the manner prescribed by
28 Chapters 2001 and 2002, Government Code, to prescribe an
29 alternative method of determining a reference interest rate, as
30 appropriate, that is a reasonably accurate approximation of that
31 average yield. (V.T.I.C. Art. 3.28, Secs. 5(d), (e).)

32 Source Law

33 (d) Reference Interest Rate

34 (1) Except as provided in Subsection (e)
35 of this section, the reference interest rate referred

1 to in Subsection (b) of this section shall be defined
2 as follows:

3 (A) For all life insurance, the
4 lesser of the average over a period of 36 months and
5 the average over a period of 12 months, ending on June
6 30 of the calendar year next preceding the year of
7 issue, of Moody's Corporate Bond Yield
8 Average--Monthly Average Corporates, as published by
9 Moody's Investors Service, Inc.

10 (B) For single premium immediate
11 annuities and for annuity benefits involving life
12 contingencies arising from other annuities with cash
13 settlement options and guaranteed interest contracts
14 with cash settlement options, the average over a
15 period of 12 months, ending on June 30 of the calendar
16 year of issue or year of purchase, of Moody's Corporate
17 Bond Yield Average--Monthly Average Corporates, as
18 published by Moody's Investors Service, Inc.

19 (C) For other annuities with cash
20 settlement options and guaranteed interest contracts
21 with cash settlement options, valued on a year of issue
22 basis, except as stated in Paragraph (B) of
23 Subdivision (1) of Subsection (d) of this section,
24 with guarantee duration in excess of 10 years, the
25 lesser of the average over a period of 36 months and
26 the average over a period of 12 months, ending on June
27 30 of the calendar year of issue or purchase, of
28 Moody's Corporate Bond Yield Average--Monthly Average
29 Corporates, as published by Moody's Investors Service,
30 Inc.

31 (D) For other annuities with cash
32 settlement options and guaranteed interest contracts
33 with cash settlement options, valued on a year of issue
34 basis, except as stated in Paragraph (B) of
35 Subdivision (1) of Subsection (d) of this section,
36 with guarantee duration of 10 years or less, the
37 average over a period of 12 months, ending on June 30
38 of the calendar year of issue or purchase, of Moody's
39 Corporate Bond Yield Average--Monthly Average
40 Corporates, as published by Moody's Investors Service,
41 Inc.

42 (E) For other annuities with no cash
43 settlement options and for guaranteed interest
44 contracts with no cash settlement options, the average
45 over a period of 12 months, ending on June 30 of the
46 calendar year of issue or purchase, of Moody's
47 Corporate Bond Yield Average--Monthly Average
48 Corporates, as published by Moody's Investors Service,
49 Inc.

50 (F) For other annuities with cash
51 settlement options and guaranteed interest contracts
52 with cash settlement options, valued on a change in
53 fund basis, except as stated in Paragraph (B) of
54 Subdivision (1) of Subsection (d) of this section, the
55 average over a period of 12 months, ending on June 30
56 of the calendar year of the change in the fund, of
57 Moody's Corporate Bond Yield Average--Monthly Average
58 Corporates, as published by Moody's Investors Service,
59 Inc.

60 (e) State Board of Insurance Promulgation of
61 Definitions of Reference Interest Rate

62 The State Board of Insurance shall, not less than
63 annually, determine whether the definition of
64 reference interest rates as specified in Subsection
65 (d) of this section continues to be a reasonably
66 accurate approximation of the average yield achieved
67 from purchases in the United States in publicly quoted
68 markets of investment grade fixed term and fixed

1 interest corporate obligations for the times specified
2 in such subsection and shall, if it determines that
3 such definition is no longer such reasonably accurate
4 approximation, promulgate rules in the manner
5 specified in the Administrative Procedure and Texas
6 Register Act, as amended (Article 6252-13a, Vernon's
7 Texas Civil Statutes), to adopt such alternative
8 methods as are appropriate to achieve such purpose.

9 Revisor's Note

10 Section 5(e), V.T.I.C. Article 3.28, refers to
11 "the Administrative Procedure and Texas Register Act,
12 as amended (Article 6252-13a, Vernon's Texas Civil
13 Statutes)." Article 6252-13a was codified in 1993 as
14 Chapters 2001 and 2002, Government Code. The revised
15 law is drafted accordingly.

16 Revised Law

17 Sec. 425.064. COMMISSIONERS RESERVE VALUATION METHOD. (a)
18 Except as otherwise provided by Sections 425.065 and 425.068 and
19 subject to Subsection (b), for the life insurance and endowment
20 benefits of a policy that provides for a uniform amount of insurance
21 and that requires the payment of uniform premiums, the reserve
22 according to the commissioners reserve valuation method is the
23 difference, if greater than zero, of the present value on the date
24 of valuation of those future guaranteed benefits, minus the present
25 value on that date of any future modified net premiums for a policy
26 described by this subsection. The modified net premiums for a
27 policy described by this subsection are a uniform percentage of the
28 respective contract premiums for those benefits, so that the
29 present value on the policy's issue date of all the modified net
30 premiums is equal to the sum of:

31 (1) the present value on that date of those benefits;
32 and

33 (2) the difference, if greater than zero, between:

34 (A) a net level annual premium equal to the
35 present value on the policy's issue date of the benefits provided
36 for after the first policy year, divided by the present value on the
37 policy's issue date of an annuity of one per year, payable on the
38 first policy anniversary and on each subsequent policy anniversary

1 on which a premium becomes due; and

2 (B) a net one-year term premium for the benefits
3 provided for in the first policy year.

4 (b) A net level annual premium under Subsection (a)(2)(A)
5 may not exceed the net level annual premium on the 19-year premium
6 whole life plan for insurance of the same amount at an age that is
7 one year older than the age on the policy's issue date.

8 (c) This subsection applies only to a life insurance policy
9 issued on or after January 1, 1985, for which the contract premium
10 for the first policy year exceeds the contract premium for the
11 second year, for which a comparable additional benefit is not
12 provided in the first year for the excess premium, and that provides
13 an endowment benefit, a cash surrender value, or a combination of an
14 endowment benefit and cash surrender value, in an amount greater
15 than the excess premium. For purposes of this subsection, the
16 "assumed ending date" is the first policy anniversary on which the
17 sum of any endowment benefit and any cash surrender value available
18 on that date is greater than the excess premium. The reserve
19 according to the commissioners reserve valuation method for a
20 policy to which this subsection applies as of any policy
21 anniversary occurring on or before the assumed ending date is,
22 except as otherwise provided by Section 425.068, the greater of:

23 (1) the reserve as of the policy anniversary computed
24 as prescribed by Subsection (a); or

25 (2) the reserve as of the policy anniversary computed
26 as prescribed by Subsection (a) but with:

27 (A) the value prescribed by Subsection (a)(2)(A)
28 reduced by 15 percent of the amount of the excess first-year
29 premium;

30 (B) each present value of a benefit or premium
31 determined without reference to a premium or benefit provided under
32 the policy after the assumed ending date;

33 (C) the policy assumed to mature on the assumed
34 ending date as an endowment; and

1 (D) the cash surrender value provided on the
2 assumed ending date considered to be an endowment benefit.

3 (d) In making the comparison required by Subsection (c), the
4 mortality tables and interest bases described by Sections 425.058,
5 425.061, 425.062, and 425.063 must be used.

6 (e) Reserves according to the commissioners reserve
7 valuation method for the following policies, contracts, and
8 benefits must be computed by a method consistent with the
9 principles of this section:

10 (1) a life insurance policy that provides for a
11 varying amount of insurance or that requires the payment of varying
12 premiums;

13 (2) a group annuity or pure endowment contract
14 purchased under a retirement or deferred compensation plan
15 established or maintained by an employer, including a partnership
16 or sole proprietorship, by an employee organization, or by both,
17 other than a plan providing individual retirement accounts or
18 individual retirement annuities under Section 408, Internal
19 Revenue Code of 1986, and that section's subsequent amendments;

20 (3) disability or accidental death benefits in a
21 policy or contract; and

22 (4) all other benefits, other than life insurance and
23 endowment benefits in a life insurance policy or benefits provided
24 by any other annuity or pure endowment contract. (V.T.I.C.
25 Art. 3.28, Sec. 6.)

26 Source Law

27 Sec. 6. Except as otherwise provided in
28 Sections 7 and 10 of this article, reserves according
29 to the commissioners reserve valuation method, for the
30 life insurance and endowment benefits of policies
31 providing for a uniform amount of insurance and
32 requiring the payment of uniform premiums shall be the
33 excess, if any, of the present value, at the date of
34 valuation, of such future guaranteed benefits provided
35 for by such policies, over the then present value of
36 any future modified net premiums therefor. The
37 modified net premiums for any such policy shall be such
38 uniform percentage of the respective contract premiums
39 for such benefits that the present value, at the date
40 of issue of the policy, of all such modified net
41 premiums shall be equal to the sum of the then present

1 value of such benefits provided for by the policy and
2 the excess of (a) over (b), as follows:

3 (a) A net level annual premium equal to the
4 present value, at the date of issue, of such benefits
5 provided for after the first policy year, divided by
6 the present value, at the date of issue, of an annuity
7 of one per annum payable on the first and each
8 subsequent anniversary of such policy on which a
9 premium falls due; provided, however, that such net
10 level annual premium shall not exceed the net level
11 annual premium on the nineteen year premium whole life
12 plan for insurance of the same amount at an age one
13 year higher than the age at issue of such policy.

14 (b) A net one year term premium for such
15 benefits provided for in the first policy year.

16 Provided that for any life insurance policy
17 issued on or after January 1, 1985, for which the
18 contract premium in the first policy year exceeds that
19 of the second year and for which no comparable
20 additional benefit is provided in the first year for
21 such excess and which provides an endowment benefit or
22 a cash surrender value or a combination thereof in an
23 amount greater than such excess premium, the reserve
24 according to the commissioners reserve valuation
25 method as of any policy anniversary occurring on or
26 before the assumed ending date defined herein as the
27 first policy anniversary on which the sum of any
28 endowment benefit and any cash surrender value then
29 available is greater than such excess premium shall,
30 except as otherwise provided in Section 10 of this
31 article, be the greater of the reserve as of such
32 policy anniversary calculated as previously described
33 in this Section 6 and the reserve as of such policy
34 anniversary calculated as previously described in this
35 Section 6 but with (i) the value defined in Subsection
36 (a) of Section 6 of this article being reduced by
37 fifteen per cent (15%) of the amount of such excess
38 first year premium, (ii) all present values of
39 benefits and premiums being determined without
40 reference to premiums or benefits provided for by the
41 policy after the assumed ending date, (iii) the policy
42 being assumed to mature on such date as an endowment,
43 and (iv) the cash surrender value provided on such date
44 being considered as an endowment benefit. In making
45 the above comparison the mortality and interest bases
46 stated in Sections 3 and 5 of this article shall be
47 used.

48 Reserves according to the commissioners reserve
49 valuation method for: (1) life insurance policies
50 providing for a varying amount of insurance or
51 requiring the payment of varying premiums; (2) group
52 annuity and pure endowment contracts purchased under a
53 retirement plan or plan of deferred compensation,
54 established or maintained by an employer (including a
55 partnership or sole proprietorship) or by an employee
56 organization, or by both, other than a plan providing
57 individual retirement accounts or individual
58 retirement annuities under Section 408 of the Internal
59 Revenue Code, as now or hereafter amended; (3)
60 disability and accidental death benefits in all
61 policies and contracts; and (4) all other benefits,
62 except life insurance and endowment benefits in life
63 insurance policies and benefits provided by all other
64 annuity and pure endowment contracts; shall be
65 calculated by a method consistent with the principles
66 of the preceding paragraphs of this section.

Revised Law

Sec. 425.065. COMMISSIONERS ANNUITY RESERVE VALUATION METHOD. (a) This section applies to an annuity or pure endowment contract other than a group annuity or pure endowment contract purchased under a retirement or deferred compensation plan established or maintained by an employer, including a partnership or sole proprietorship, by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408, Internal Revenue Code of 1986, and that section's subsequent amendments.

(b) Reserves according to the commissioners annuity reserve method for benefits under an annuity or pure endowment contract, excluding any disability or accidental death benefits in the contract, are the greatest of the respective excesses of the present values on the valuation date of the future guaranteed benefits under the contract at the end of each respective contract year, including guaranteed nonforfeiture benefits, minus the present value on the valuation date of any future valuation considerations derived from future gross considerations that are required by the contract terms and that become payable before the end of the respective contract year. The future guaranteed benefits must be determined by using the mortality table, if any, and the interest rate or rates specified in the contract for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the contract terms to determine nonforfeiture values. (V.T.I.C. Art. 3.28, Sec. 7.)

Source Law

Sec. 7. This section shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the commissioners annuity

1 reserve method for benefits under annuity or pure
2 endowment contracts, excluding any disability and
3 accidental death benefits in such contracts, shall be
4 the greatest of the respective excesses of the present
5 values, at the date of valuation, of the future
6 guaranteed benefits, including guaranteed
7 nonforfeiture benefits, provided for by such contracts
8 at the end of each respective contract year, over the
9 present value, at the date of valuation, of any future
10 valuation considerations derived from future gross
11 considerations, required by the terms of such
12 contract, that become payable prior to the end of such
13 respective contract year. The future guaranteed
14 benefits shall be determined by using the mortality
15 table, if any, and the interest rate or rates specified
16 in such contracts for determining guaranteed benefits.
17 The valuation considerations are the portions of the
18 respective gross considerations applied under the
19 terms of such contracts to determine nonforfeiture
20 values.

21 Revised Law

22 Sec. 425.066. MINIMUM AGGREGATE RESERVES. (a) An
23 insurance company's aggregate reserves for all life insurance
24 policies, excluding disability or accidental death benefits,
25 issued by the company on or after the date on which Chapter 1105
26 applies to policies issued by the company, as determined under
27 Section 1105.002(a) or (b), may not be less than the aggregate
28 reserves computed in accordance with the methods prescribed by
29 Sections 425.064, 425.065, 425.068, and 425.069 and the mortality
30 table or tables and interest rate or rates used in computing
31 nonforfeiture benefits for those policies.

32 (b) The aggregate reserves of an insurance company to which
33 this section applies for all policies, contracts, and benefits may
34 not be less than the aggregate reserves determined to be necessary
35 to issue a favorable opinion under Section 425.054. (V.T.I.C.
36 Art. 3.28, Secs. 8, 8A.)

37 Source Law

38 Sec. 8. In no event shall a company's aggregate
39 reserves for all life insurance policies, excluding
40 disability and accidental death benefits, issued on or
41 after the operative date of Article 3.44a (the
42 Standard Nonforfeiture Law for Life Insurance), be
43 less than the aggregate reserves calculated in
44 accordance with the methods set forth in Sections 6, 7,
45 10, and 11 and the mortality table or tables and rate
46 or rates of interest used in calculating nonforfeiture
47 benefits for such policies.

48 Sec. 8A. In no event shall aggregate reserves of
49 a company covered by Section 8 of this article for all
50 policies, contracts, and benefits be less than the

1 aggregate reserves determined to be necessary to
2 render the opinion required by Section 2A of this
3 article.

4 Revisor's Note

5 Section 8A, V.T.I.C. Article 3.28, refers to the
6 aggregate reserves necessary to render "the opinion"
7 required by Section 2A, V.T.I.C. Article 3.28, revised
8 in relevant part in this chapter as Section 425.054.
9 That section requires a life insurance company to
10 submit to the Texas Department of Insurance the
11 opinion of an actuary regarding, in part, whether the
12 company's reserves comply with applicable laws of this
13 state. Throughout this subchapter, the revised law
14 substitutes references to "a favorable opinion" for
15 references to "the opinion" in this context for
16 clarity because the opinion submitted under Section 2A
17 could be a negative opinion, and it is clear from the
18 context of Section 8A that the quoted reference is
19 intended to refer to aggregate reserves necessary for
20 a favorable opinion.

21 Revised Law

22 Sec. 425.067. OPTIONAL RESERVE COMPUTATIONS. (a) Reserves
23 for a policy or contract issued by a life insurance company before
24 the date on which Chapter 1105 would apply to the policy or
25 contract, as determined under Section 1105.002(a) or (b), may be
26 computed, at the company's option, according to any standard that
27 produces greater aggregate reserves for all those policies and
28 contracts than the minimum reserves required by the laws applicable
29 to those policies and contracts immediately before that date.

30 (b) Reserves for any category, as established by the
31 commissioner, of policies, contracts, or benefits issued by a life
32 insurance company on or after the date on which Chapter 1105 applies
33 to policies, contracts, or benefits issued by the company, as
34 determined under Section 1105.002(a) or (b), may be computed, at
35 the company's option, according to any standard that produces

1 greater aggregate reserves for the category than the minimum
2 aggregate reserves computed according to the standard provided by
3 this subchapter, but the interest rate or rates used for those
4 policies and contracts, other than annuity and pure endowment
5 contracts, may not be higher than the corresponding interest rate
6 or rates used in computing any nonforfeiture benefits provided in
7 those policies or contracts.

8 (c) An insurance company that has adopted a standard of
9 valuation that produces greater minimum aggregate reserves than the
10 aggregate reserves computed according to the standard provided by
11 this subchapter may, with the commissioner's approval, adopt any
12 lower standard of valuation that produces aggregate reserves at
13 least equal to the minimum aggregate reserves computed according to
14 the standard provided by this subchapter.

15 (d) For purposes of this section, the holding of additional
16 reserves previously determined to be necessary to issue a favorable
17 opinion under Section 425.054 may not be considered to be the
18 adoption of a higher standard of valuation. (V.T.I.C. Art. 3.28,
19 Secs. 9, 9A.)

20 Source Law

21 Sec. 9. Reserves for all policies and contracts
22 issued prior to the operative date of Article 3.44a
23 (the Standard Nonforfeiture Law for Life Insurance)
24 may be calculated, at the option of the company,
25 according to any standards which produce greater
26 aggregate reserves for all such policies and contracts
27 than the minimum reserves required by the laws in
28 effect immediately prior to such date.

29 Reserves for any category of policies, contracts
30 or benefits as established by the State Board of
31 Insurance, issued on or after the operative date of
32 Article 3.44a (the Standard Nonforfeiture Law for Life
33 Insurance), may be calculated, at the option of the
34 company, according to any standards which produce
35 greater aggregate reserves for such category than
36 those calculated according to the minimum standard
37 herein provided, but the rate or rates of interest used
38 for policies and contracts, other than annuity and
39 pure endowment contracts, shall not be higher than the
40 corresponding rate or rates of interest used in
41 calculating any nonforfeiture benefits provided
42 therein.

43 Any such company which at any time shall have
44 adopted any standard of valuation producing greater
45 aggregate reserves than those calculated according to
46 the minimum standard herein provided may, with the
47 approval of the State Board of Insurance, adopt any

1 lower standard of valuation, but not lower than the
2 minimum herein provided.

3 Sec. 9A. For the purposes of Section 9 of this
4 article, the holding of additional reserves previously
5 determined to be necessary to render the opinion
6 required by Section 2A of this article shall not be
7 deemed to be the adoption of a higher standard of
8 valuation.

9 Revised Law

10 Sec. 425.068. RESERVE COMPUTATION: GROSS PREMIUM CHARGED
11 LESS THAN VALUATION NET PREMIUM. (a) If in a contract year the
12 gross premium charged by a life insurance company on a policy or
13 contract is less than the valuation net premium for the policy or
14 contract computed by the method used in computing the reserve on the
15 policy or contract but using the minimum valuation mortality
16 standards and interest rate, the minimum reserve required for the
17 policy or contract is the greater of:

18 (1) the reserve computed according to the mortality
19 table, interest rate, and method actually used for the policy or
20 contract; or

21 (2) the reserve computed by the method actually used
22 for the policy or contract but using the minimum valuation
23 mortality standards and interest rate and replacing the valuation
24 net premium with the actual gross premium in each contract year for
25 which the valuation net premium exceeds the actual gross premium.

26 (b) The minimum valuation mortality standards and interest
27 rate under Subsection (a) are the standards and rate provided by
28 Sections 425.058, 425.061, 425.062, and 425.063.

29 (c) This subsection applies only to a life insurance policy
30 issued on or after January 1, 1985, for which the gross premium for
31 the first policy year exceeds the gross premium for the second
32 policy year, for which a comparable additional benefit is not
33 provided in the first year for the excess premium, and that provides
34 an endowment benefit, a cash surrender value, or a combination of an
35 endowment benefit and cash surrender value, in an amount greater
36 than the excess premium. For a policy to which this subsection
37 applies, Subsections (a) and (b) shall be applied as if the method
38 actually used in computing the reserve for the policy were the

1 method described in Section 425.064, ignoring Section 425.064(c).

2 The minimum reserve at each policy anniversary is the greater of:

3 (1) the minimum reserve computed in accordance with
4 Section 425.064, including Section 425.064(c); or

5 (2) the minimum reserve computed in accordance with
6 this section. (V.T.I.C. Art. 3.28, Sec. 10.)

7 Source Law

8 Sec. 10. If in any contract year the gross
9 premium charged by any life insurance company on any
10 policy or contract is less than the valuation net
11 premium for the policy or contract calculated by the
12 method used in calculating the reserve thereon but
13 using the minimum valuation standards of mortality and
14 rate of interest, the minimum reserve required for
15 such policy or contract shall be the greater of either
16 the reserve calculated according to the mortality
17 table, rate of interest, and method actually used for
18 such policy or contract, or the reserve calculated by
19 the method actually used for such policy or contract
20 but using the minimum valuation standards of mortality
21 and rate of interest and replacing the valuation net
22 premium by the actual gross premium in each contract
23 year for which the valuation net premium exceeds the
24 actual gross premium. The minimum valuation standards
25 of mortality and rate of interest referred to in this
26 section are those standards stated in Sections 3 and 5
27 of this article.

28 Provided that for any life insurance policy
29 issued on or after January 1, 1985, for which the gross
30 premium in the first policy year exceeds that of the
31 second year and for which no comparable additional
32 benefit is provided in the first year for such excess
33 and which provides an endowment benefit or a cash
34 surrender value or a combination thereof in an amount
35 greater than such excess premium, the foregoing
36 provisions of this Section 10 shall be applied as if
37 the method actually used in calculating the reserve
38 for such policy were the method described in Section 6
39 of this article, ignoring the second paragraph of
40 Section 6. The minimum reserve at each policy
41 anniversary of such a policy shall be the greater of
42 the minimum reserve calculated in accordance with
43 Section 6, including the second paragraph of that
44 section, and the minimum reserve calculated in
45 accordance with this Section 10.

46 Revised Law

47 Sec. 425.069. RESERVE COMPUTATION: INDETERMINATE PREMIUM
48 PLANS AND CERTAIN OTHER PLANS. (a) For a life insurance plan that
49 provides for future premium determination, the amounts of which are
50 to be determined by the insurance company based on estimates of
51 future experience, or a life insurance plan or annuity for which the
52 minimum reserves cannot be determined by the methods described by

1 Sections 425.064, 425.065, and 425.068, the reserves held must:

2 (1) be appropriate in relation to the benefits and the
3 pattern of premiums for the plan; and

4 (2) be computed by a method that is consistent with the
5 principles of this subchapter, as determined by commissioner rule.

6 (b) Notwithstanding any other provision of state law, the
7 commissioner must affirmatively approve a policy, contract, or
8 certificate that provides life insurance under a plan described by
9 Subsection (a) before the policy, contract, or certificate may be
10 marketed, issued, delivered, or used in this state. (V.T.I.C.
11 Art. 3.28, Sec. 11.)

12 Source Law

13 Sec. 11. In the case of any plan of life
14 insurance which provides for future premium
15 determination, the amounts of which are to be
16 determined by the insurance company based on then
17 estimates of future experience, or in the case of any
18 plan of life insurance or annuity which is of such a
19 nature that the minimum reserves cannot be determined
20 by the methods described in Sections 6, 7, and 10 of
21 this article, the reserves which are held under any
22 such plan must:

23 (a) be appropriate in relation to the
24 benefits and the pattern of premiums for that plan, and

25 (b) be computed by a method which is
26 consistent with the principles of this Standard
27 Valuation Law, as determined by regulations
28 promulgated by the State Board of Insurance.

29 Notwithstanding any other provision in the laws
30 of this state, any policy, contract, or certificate
31 providing life insurance under any such plan must be
32 affirmatively approved by the State Board of Insurance
33 before it can be marketed, issued, delivered, or used
34 in this state.

35 Revisor's Note

36 Section 11, V.T.I.C. Article 3.28, refers to
37 "then" estimates of future experience. The revised
38 law omits the reference to "then" as unnecessary
39 because it does not add to the clear meaning of the
40 law. Similar changes have been made throughout this
41 chapter.

42 Revised Law

43 Sec. 425.070. COMPUTATION OF RESERVE FOR CERTAIN POLICIES
44 BY CALENDAR YEAR OF ISSUE. (a) The reserve for a policy or

1 contract issued by a life insurance company before the date on which
2 Chapter 1105 would apply to the policy or contract, as determined
3 under Section 1105.002(a) or (b), must be computed in accordance
4 with the terms of the policy or contract and this section.

5 (b) For a policy issued before January 1, 1910, the
6 computation must be based on the American Experience Table of
7 Mortality and 4-1/2 percent annual interest.

8 (c) For a policy issued on or after January 1, 1910, and
9 before January 1, 1948, the computation must be based on:

10 (1) the Actuaries or Combined Experience Table of
11 Mortality and four percent annual interest, if the interest rate
12 guaranteed in the policy is four percent annually or higher; or

13 (2) the American Experience Table of Mortality and
14 the lower rate specified in the policy, if the policy was issued on
15 a reserve basis of an interest rate lower than four percent
16 annually.

17 (d) For a policy issued on or after January 1, 1948, the
18 computation must be based on the mortality table and interest rate
19 specified in the policy, provided that:

20 (1) the specified interest rate may not exceed 3-1/2
21 percent annually;

22 (2) the specified table for a policy, other than an
23 industrial life insurance policy, is the American Experience Table
24 of Mortality, the American Men Ultimate Table of Mortality, the
25 Commissioners 1941 Standard Ordinary Mortality Table, or, for a
26 policy issued after December 31, 1959, the Commissioners 1958
27 Standard Ordinary Mortality Table; and

28 (3) the specified table for an industrial life
29 insurance policy is the American Experience Table of Mortality, the
30 Standard Industrial Mortality Table, the Sub-Standard Industrial
31 Mortality Table, the 1941 Standard Industrial Mortality Table, or
32 the 1941 Sub-Standard Industrial Mortality Table, or, for a policy
33 issued after December 31, 1963, the Commissioners 1961 Standard
34 Industrial Mortality Table.

1 (e) For a policy, other than an industrial life insurance
2 policy, issued after December 31, 1959, to insure a female risk, the
3 computation must be based on any mortality table and interest rate
4 permitted under Subsection (d) and specified in the policy but may,
5 at the insurance company's option, be based on an age not more than
6 three years younger than the insured's actual age.

7 (f) Except as otherwise provided by Section 425.059 for
8 coverage purchased under a group annuity or pure endowment contract
9 to which that section applies, for a policy issued on a substandard
10 risk, an annuity contract, or a contract or policy for disability
11 benefits or accidental death benefits, the computation must be
12 based on the standards and methods adopted by the insurance company
13 and approved by the commissioner.

14 (g) For a group insurance policy issued before May 15, 1947,
15 the computation must be based on the American Men Ultimate Table of
16 Mortality with interest at the rate of three percent or 3-1/2
17 percent annually as provided by the policy. The reserve value of a
18 group insurance policy issued on or after May 15, 1947, and before
19 January 1, 1961, must be computed on the basis of either the
20 American Men Ultimate Table of Mortality or the Commissioners 1941
21 Standard Ordinary Mortality Table with interest at a rate not to
22 exceed 3-1/2 percent annually as provided by the policy. For a
23 group insurance policy issued on or after January 1, 1961, the
24 computation must be based on an interest rate not to exceed 3-1/2
25 percent annually and the mortality table adopted by the insurance
26 company with the commissioner's approval. (V.T.I.C. Art. 3.28,
27 Secs. 3 (part), 12.)

28 Source Law

29 Sec. 3. The minimum standard for the valuation
30 of all such policies and contracts issued prior to the
31 operative date of Article 3.44a (the Standard
32 Nonforfeiture Law for Life Insurance) shall be that
33 provided in Section 12 of this article. . . .

34 Sec. 12. This section shall apply only to those
35 policies and contracts issued prior to the operative
36 date of Article 3.44a (the Standard Nonforfeiture Law
37 for Life Insurance). The reserve liability of all such
38 policies and contracts shall be computed in accordance

1 with their terms and the following rules:

2 (a) As respects policies issued prior to
3 the first day of January, 1910, the computation shall
4 be on the basis of the American Experience Table of
5 Mortality and four and one-half per cent (4 1/2%)
6 interest per annum.

7 (b) As respects policies issued after the
8 31st day of December, 1909, and prior to January 1,
9 1948, the computation shall be on the basis of the
10 Actuaries or Combined Experience Table of Mortality
11 with four per cent (4%) interest per annum, if the
12 interest rate guaranteed in the policy is four per cent
13 (4%) per annum or higher. If any such policies were
14 issued upon a reserve basis of an interest rate lower
15 than four per cent (4%) per annum, then the computation
16 shall be made on the basis of the American Experience
17 Table of Mortality with interest at such lower
18 specified rate.

19 (c) As respects policies issued after the
20 31st day of December, 1947, the computation shall be on
21 the basis of the mortality table and interest rate
22 specified in the respective policies, provided that
23 (A) the specified rate of interest shall not exceed
24 three and one-half per cent (3 1/2%) per annum; (B)
25 the specified table for policies other than policies
26 of industrial life insurance shall be the American
27 Experience Table of Mortality, the American Men
28 Ultimate Table of Mortality, the Commissioners 1941
29 Standard Ordinary Mortality Table, or, as respects
30 policies issued after the 31st day of December, 1959,
31 the Commissioners 1958 Standard Ordinary Mortality
32 Table; and (C) the specified table for policies of
33 industrial life insurance shall be the American
34 Experience Table of Mortality, the Standard Industrial
35 Mortality Table, the Sub-Standard Industrial
36 Mortality Table, the 1941 Standard Industrial
37 Mortality Table, or the 1941 Sub-Standard Industrial
38 Mortality Table, or, as respects policies issued after
39 the 31st day of December, 1963, the Commissioners 1961
40 Standard Industrial Mortality Table.

41 (d) As respects policies on female risks
42 issued after the 31st day of December, 1959, other than
43 policies of industrial life insurance, computation
44 shall be based on any mortality table and rate of
45 interest permitted under Subsection (c) of Section 12
46 of this article and specified in the respective
47 policies but may at the option of the company be based
48 on an age not more than three (3) years younger than
49 the actual age of the insured.

50 (e) Except as otherwise provided in
51 Section 4 of this article with respect to coverages
52 purchased on or after the operative date of such
53 subsection under group annuity and pure endowment
54 contracts, as respects policies issued on substandard
55 risks and annuity contracts and contracts or policies
56 for disability benefits and accidental death benefits,
57 the computation shall be on the basis of the standards
58 and methods adopted by the respective companies and
59 approved by the State Board of Insurance.

60 (f) The reserve values of all policies of
61 group insurance issued prior to May 15, 1947, shall be
62 computed upon the basis of the American Men Ultimate
63 Table of Mortality with interest at the rate of three
64 per cent (3%) or three and one-half per cent (3 1/2%)
65 per annum as provided in such policies. The reserve
66 values of all policies of group insurance issued on and
67 subsequent to May 15, 1947, and prior to January 1,
68 1961, shall be computed upon the basis of either the

1 American Men Ultimate Table of Mortality or the
2 Commissioners 1941 Standard Ordinary Mortality Table
3 with interest at a rate not in excess of three and
4 one-half per cent (3 1/2%) per annum as provided in
5 such policies. The reserve values of all policies of
6 group insurance issued on and subsequent to January 1,
7 1961, shall be computed on the basis of an interest
8 rate not exceeding three and one-half per cent (3 1/2%)
9 per annum and such mortality table as shall be adopted
10 by the company with the approval of the State Board of
11 Insurance.

12 Revisor's Note
13 (End of Subchapter)

14 (1) Section 13, V.T.I.C. Article 3.28, repeals
15 all laws in conflict with that article. This revision
16 omits that provision as unnecessary because, under
17 general rules of statutory construction, a statute
18 automatically has the effect of repealing prior
19 conflicting enactments. The provision is, of course,
20 ineffective to repeal subsequent legislation. The
21 omitted law reads:

22 Sec. 13. All acts and parts of acts
23 inconsistent with the provisions of this
24 article are hereby repealed.

25 (2) V.T.I.C. Article 3.31 provides that if a
26 "foreign insurance company shall fail to file the
27 certificate authorized by the preceding article"
28 (meaning former V.T.I.C. Article 3.30), the company
29 shall "forthwith . . . file with the Board of
30 Insurance Commissioners full detailed lists of its
31 policies and securities" and is "liable for all
32 charges and expenses" because of the company's failure
33 to file the certificate.

34 As enacted as part of the Insurance Code in 1951,
35 V.T.I.C. Article 3.30 provided that the Board of
36 Insurance Commissioners could accept from a foreign
37 insurance company a certificate as to "the computation
38 of reserve liability made by the insurance
39 commissioner of the state under whose authority [the]
40 life insurance company was organized." V.T.I.C.
41 Article 3.30 was repealed by Chapter 434, Acts of the

1 58th Legislature, Regular Session, 1963. That act
2 also enacted the Standard Valuation Law (V.T.I.C.
3 Article 3.28), revised as this subchapter. Section 2,
4 V.T.I.C. Article 3.28, revised in relevant part as
5 Section 425.053(c), permits the State Board of
6 Insurance, as to a "foreign or alien company," to
7 accept "any valuation made, or caused to be made, by
8 the insurance supervisory official of any state or
9 other jurisdiction" of the company's reserves. Unlike
10 former V.T.I.C. Article 3.30, Section 2, V.T.I.C.
11 Article 3.28, does not expressly require the foreign
12 or alien insurer to provide a certificate from the
13 insurance supervisory official of the other
14 jurisdiction.

15 Accordingly, the revised law omits V.T.I.C.
16 Article 3.31 as obsolete. The omitted provision
17 reads:

18 Art. 3.31. If any such foreign
19 insurance company shall fail to file the
20 certificate authorized by the preceding
21 article, it shall be required forthwith to
22 file with the Board of Insurance
23 Commissioners full detailed lists of its
24 policies and securities and shall be liable
25 for all charges and expenses consequent
26 upon its failure so to file such
27 certificate.

28 [Sections 425.071-425.100 reserved for expansion]

29 SUBCHAPTER C. AUTHORIZED INVESTMENTS AND TRANSACTIONS FOR CAPITAL
30 STOCK LIFE, HEALTH, AND ACCIDENT INSURERS

31 Revised Law

32 Sec. 425.101. DEFINITIONS. In this subchapter:

33 (1) "Assets" means the statutory accounting admitted
34 assets of an insurance company. The term includes lawful money of
35 the United States, whether in the form of cash or demand deposits in
36 solvent banks, savings and loan associations, credit unions, and
37 branches of those entities, organized under the laws of the United
38 States or a state of the United States, if held in accordance with

1 the laws or regulations applicable to those entities. The term does
2 not include the company's separate accounts that are subject to
3 Chapter 1152.

4 (2) "Securities valuation office" means the
5 Securities Valuation Office of the National Association of
6 Insurance Commissioners. (V.T.I.C. Art. 3.33, Sec. 7(a); New.)

7 Source Law

8 Sec. 7. (a) The term "assets" as used in this
9 article shall mean the statutory accounting admitted
10 assets of the insurer, including lawful money of the
11 United States, whether in the form of cash or demand
12 deposits in solvent banks, savings and loan
13 associations, and credit unions and branches thereof,
14 organized under the laws of the United States of
15 America or its states, when held in accordance with the
16 laws or regulations applicable to such entities, less
17 the insurer's separate accounts that are subject to
18 Part III of Article 3.39, Article 3.72, Article 3.73,
19 and Article 3.75 of this code.

20 Revisor's Note

21 (1) Section 7, V.T.I.C. Article 3.33, and other
22 provisions of that article refer to an "insurer."
23 Section 1, V.T.I.C. Article 3.33, revised in this
24 chapter as Section 425.103, specifies the types of
25 domestic insurance companies and other insurance
26 companies governed by Article 3.33, revised as this
27 subchapter. For consistency with the terminology used
28 in Section 425.103 and in Chapter 841 of this code, the
29 revised law throughout this subchapter substitutes
30 "insurance company" for "insurer."

31 (2) Section 7(a), V.T.I.C. Article 3.33, refers
32 to an "insurer's separate accounts that are subject to
33 Part III of Article 3.39, Article 3.72, Article 3.73,
34 and Article 3.75." As added by Chapter 181, Acts of
35 the 59th Legislature, Regular Session, 1965, Part III,
36 V.T.I.C. Article 3.39, provided for domestic life
37 insurance companies to establish separate accounts for
38 amounts paid to the company in connection with a
39 pension, retirement, or profit-sharing plan with

1 variable benefits. As enacted by Chapter 210, Acts of
2 the 60th Legislature, Regular Session, 1967, V.T.I.C.
3 Article 3.72 provided for insurance companies to issue
4 variable annuity contracts; Section 7 of that article
5 required an insurance company to establish one or more
6 separate accounts for variable annuity contracts. As
7 enacted by Chapter 529, Acts of the 62nd Legislature,
8 Regular Session, 1971, V.T.I.C. Article 3.73 provided
9 for insurance companies to issue variable life
10 insurance contracts and variable annuities; Section 2
11 of that article permitted an insurance company to
12 establish one or more separate accounts for those
13 contracts and annuities.

14 Part III, V.T.I.C. Article 3.39, and V.T.I.C.
15 Articles 3.72 and 3.73 were repealed by Chapter 648,
16 Acts of the 68th Legislature, Regular Session, 1983.
17 That act also added V.T.I.C. Article 3.75, revised in
18 this code as Chapter 1152, which provides for variable
19 annuity contracts and variable life insurance
20 policies, and permitted separate accounts for those
21 contracts and policies. Section 9(b), V.T.I.C.
22 Article 3.75 was revised in 2001 in this code as
23 Section 1152.001(c). That section provides that a
24 separate account established under one of the repealed
25 articles is considered to be established under Chapter
26 1152 of this code. Accordingly, the revised law omits
27 the references to former Part III, V.T.I.C. Article
28 3.39, and former V.T.I.C. Articles 3.72 and 3.73 as
29 unnecessary.

30 (3) The revised law adds the definition of
31 "securities valuation office" for drafting
32 convenience and to eliminate frequent, unnecessary
33 repetition of the substance of the definition.

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Sec. 425.102. INAPPLICABILITY OF CERTAIN LAW. The definition of "state" assigned by Section 311.005, Government Code, does not apply to this subchapter. (New.)

Revisor's Note

Section 311.005(7), Government Code (Code Construction Act), defines "state" to include a district, commonwealth, territory, and insular possession of the United States. That definition generally applies to the revised law. However, it is clear that in V.T.I.C. Article 3.33, revised as this subchapter, the term "state" has a narrower meaning, because Section 4(n), revised in this chapter as Section 425.151, permits an insurer to invest in "commonwealths, territories, or possessions of the United States," but provides additional limitations on those investments that are not provided for investments in states and districts of the United States. The revised law provides that the Code Construction Act definition does not apply in this subchapter to ensure that no substantive change is made by the revision of the phrase "state of the United States" in the context of this subchapter.

Revised Law

Sec. 425.103. APPLICABILITY OF SUBCHAPTER. (a) This subchapter and rules adopted to interpret and implement this subchapter apply to all domestic insurance companies as defined in Section 841.001 and to other insurance companies specifically made subject to this subchapter, including a stipulated premium company that elects under Section 884.311 to be governed by this subchapter.

(b) Subchapter D does not apply to an insurance company to which this subchapter applies.

(c) This subchapter does not limit or restrict investments

1 in or transactions with or within subsidiaries and affiliates made
2 under Chapter 823. (V.T.I.C. Art. 3.33, Sec. 1 (part).)

3 Source Law

4 Art. 3.33

5 Sec. 1. This article and the rules promulgated
6 to interpret and implement it shall apply to all
7 domestic insurance companies as defined in Section
8 841.001 of this code and other insurers specifically
9 made subject to the provisions hereof, including a
10 stipulated premium insurance company electing to be
11 governed by this article under Section 884.311 of this
12 code. Articles 3.39, 3.40, and 3.40-1 of this code
13 shall not be applicable to such companies, but
14 This article shall not limit or restrict the
15 investments in or transactions with or within
16 subsidiaries and affiliates which are made pursuant to
17 the authority of the Texas Insurance Holding Company
18 System Regulatory Act (Chapter 823, Insurance Code).

19 Revisor's Note

20 Section 1, V.T.I.C. Article 3.33, refers to a
21 "stipulated premium insurance company," meaning a
22 company operating under Chapter 884 of this code. The
23 term most frequently used to describe that type of
24 entity is "stipulated premium company." For
25 consistent use of terminology in this code, the
26 revised law substitutes "stipulated premium company"
27 for "stipulated premium insurance company."

28 Revised Law

29 Sec. 425.104. PURPOSE. The purpose of this subchapter is
30 to protect and further the interests of insureds, insurance
31 companies, creditors, and the public by providing standards for
32 development and administration of plans for investment of insurance
33 companies' assets. (V.T.I.C. Art. 3.33, Sec. 2.)

34 Source Law

35 Sec. 2. The purpose of this article is to
36 protect and further the interests of insureds,
37 insurers, creditors, and the public by providing
38 standards for the development and administration of
39 plans for the investment of the assets of insurers.

40 Revised Law

41 Sec. 425.105. WRITTEN INVESTMENT PLAN. (a) Each
42 insurance company's board of directors or, if the company does not
43 have a board of directors, the corresponding authority designated

1 by the company's charter, bylaws, or plan of operation, shall adopt
2 a written investment plan consistent with this subchapter.

3 (b) The investment plan must:

4 (1) specify the diversification of the insurance
5 company's investments, so as to reduce the risk of large losses, by:

6 (A) broad categories, such as bonds and real
7 property loans;

8 (B) kinds, such as government obligations,
9 obligations of business entities, mortgage-backed securities, and
10 real property loans on office, retail, industrial, or residential
11 properties;

12 (C) quality;

13 (D) maturity;

14 (E) industry; and

15 (F) geographical areas, as to both domestic and
16 foreign investments;

17 (2) balance safety of principal with yield and growth;

18 (3) seek a reasonable relationship of assets and
19 liabilities as to term and nature; and

20 (4) be appropriate considering the capital and surplus
21 and the business conducted by the company.

22 (c) At least annually, the board of directors or
23 corresponding authority shall review the adequacy of the investment
24 plan and the implementation of the plan.

25 (d) An insurance company shall maintain the company's
26 investment plan in the company's principal office and provide the
27 plan to the commissioner or the commissioner's designee on request.
28 The commissioner or the commissioner's designee shall maintain the
29 plan as a privileged and confidential document. The plan is not
30 subject to public disclosure. (V.T.I.C. Art. 3.33, Secs. 3(a), (b)
31 (part).)

32 Source Law

33 Sec. 3. (a) The board of directors of each
34 insurer or corresponding authority designated by the
35 charter, bylaws, or plan of operations of an insurer

1 which has no board of directors shall:

2 (1) adopt a written investment plan
3 consistent with the provisions of this article which:

4 (A) specifies the diversification of
5 the insurer's investments, so as to reduce the risk of
6 large losses, by:

7 (i) broad categories (such as
8 bonds and real estate loans),

9 (ii) kinds (such as obligations
10 of governments, or business entities, mortgage-backed
11 securities, and real estate loans on office, retail,
12 industrial or residential properties),

13 (iii) quality,

14 (iv) maturity,

15 (v) industry, and

16 (vi) geographical areas (as to
17 both domestic and foreign investments);

18 (B) balances safety of principal with
19 yield and growth;

20 (C) seeks a reasonable relationship
21 of assets and liabilities as to term and nature;

22 (D) is appropriate considering the
23 capital and surplus and the business conducted by the
24 insurer;

25 (2) at least annually, review the adequacy
26 of such investment plan and the implementation
27 thereof.

28 (b) The insurer shall maintain the investment
29 plan in its principal office and shall provide same to
30 the commissioner or his designee upon request, and
31 such plans shall be maintained as a privileged and
32 confidential document by the Commissioner of Insurance
33 or his designee and it shall not be subject to public
34 disclosure. . . .

35 Revisor's Note

36 Section 3(b), V.T.I.C. Article 3.33, refers to
37 the "Commissioner of Insurance." Section 31.001 of
38 this code defines "commissioner" for purposes of this
39 code and the other insurance laws of this state to mean
40 the commissioner of insurance. Throughout this
41 chapter, the revised law is drafted accordingly.

42 Revised Law

43 Sec. 425.106. INVESTMENT RECORDS; DEMONSTRATION OF
44 COMPLIANCE. An insurance company shall maintain investment records
45 covering each transaction. The company must be able to demonstrate
46 at all times that the company's investments are within the
47 limitations imposed by this subchapter. (V.T.I.C. Art. 3.33, Sec.
48 3(b) (part).)

49 Source Law

50 (b) . . . The insurer shall maintain investment
51 records covering each transaction. At all times, the
52 insurer shall be able to demonstrate that its

1 investments are within the limitations prescribed in
2 this article.

3 Revised Law

4 Sec. 425.107. COMMUNITY INVESTMENT REPORT. (a) The
5 department shall, after consulting with the insurance industry of
6 this state and the office of public insurance counsel, develop a
7 report of insurance industry community investments in this state.

8 (b) The commissioner may request, and an insurance company
9 shall provide, information necessary to complete the report
10 required by this section.

11 (c) The department shall provide the report required by this
12 section to the legislature not later than December 1 of each
13 even-numbered year. (V.T.I.C. Art. 3.33, Sec. 3A.)

14 Source Law

15 Sec. 3A. (a) The Texas Department of Insurance
16 shall, after consultation with the insurance industry
17 of this state and the Office of Public Insurance
18 Counsel, develop a report of insurance industry
19 community investments in Texas.

20 (b) The commissioner may request and insurance
21 companies shall provide information necessary to
22 complete the requirements of Subsection (a).

23 (c) The report established under Subsection (a)
24 shall be provided to the Texas Legislature no later
25 than December 1 of each even-numbered year.

26 Revisor's Note

27 Section 3A(a), V.T.I.C. Article 3.33, refers to
28 the "Texas Department of Insurance." Section 31.001
29 of this code defines "department" for purposes of this
30 code and the other insurance laws of this state to mean
31 the Texas Department of Insurance. The revised law is
32 drafted accordingly.

33 Revised Law

34 Sec. 425.108. AUTHORIZED INVESTMENTS AND TRANSACTIONS IN
35 GENERAL. (a) Subject to the limitations and restrictions imposed
36 by this subchapter, and, unless otherwise specified, based on the
37 insurance company's capital, surplus, and admitted assets as
38 reported in the company's most recently filed statutory financial
39 statement, the investments and transactions described by this
40 subchapter and Subchapter F, Chapter 823, are authorized

1 investments and transactions for a company subject to this
2 subchapter.

3 (b) An insurance company may not make an investment or enter
4 into a transaction that is not authorized by this subchapter or
5 Subchapter F, Chapter 823. (V.T.I.C. Art. 3.33, Sec. 4 (part).)

6 Source Law

7 Sec. 4. Subject to the limitations and
8 restrictions herein contained and, unless otherwise
9 specified, based upon the insurer's capital, surplus
10 and admitted assets as reported in the most recently
11 filed statutory financial statement, the investments
12 and transactions described in the following
13 subsections, and in Section 6, Article 21.49-1, and
14 none other, are authorized for the insurers subject
15 hereto:

16 . . .

17 Revised Law

18 Sec. 425.109. AUTHORIZED INVESTMENTS: GOVERNMENT
19 OBLIGATIONS. (a) An insurance company may invest in:

20 (1) a bond, evidence of indebtedness, or other
21 obligation of the United States;

22 (2) a bond, evidence of indebtedness, or other
23 obligation guaranteed as to principal and interest by the full
24 faith and credit of the United States;

25 (3) a bond, evidence of indebtedness, or other
26 obligation of an agency or instrumentality of the United States
27 government; and

28 (4) subject to Subsections (b) and (c), a bond,
29 evidence of indebtedness, or other obligation of a governmental
30 unit in the United States, Canada, or any province or municipality
31 of Canada, or of an instrumentality of one of those governmental
32 units.

33 (b) An insurance company may not invest in a bond, evidence
34 of indebtedness, or other obligation under Subsection (a)(4) if the
35 governmental unit or instrumentality is in default in the payment
36 of principal of or interest on any of the governmental unit's or
37 instrumentality's obligations.

38 (c) An insurance company's investments in the obligations

1 of a single governmental unit or instrumentality under Subsection
2 (a)(4) may not exceed 20 percent of the company's capital and
3 surplus. (V.T.I.C. Art. 3.33, Secs. 4(a), (b).)

4 Source Law

5 [Sec. 4. . . . the investments and transactions
6 described in the following subsections . . . are
7 authorized for the insurers subject hereto:]

8 (a) United States Government Bonds. Bonds,
9 evidences of indebtedness or obligations of the United
10 States of America, or bonds, evidences of indebtedness
11 or obligations guaranteed as to principal and interest
12 by the full faith and credit of the United States of
13 America, and bonds, evidences of indebtedness, or
14 obligations of agencies and instrumentalities of the
15 government of the United States of America;

16 (b) Other Governmental Bonds. Bonds, evidences
17 of indebtedness or obligations of governmental units
18 in the United States, Canada, or any province or city
19 of Canada, and of the instrumentalities of such
20 governmental units; provided:

21 (1) such governmental unit or
22 instrumentality is not in default in the payment of
23 principal or interest in any of its obligations; and

24 (2) investments in the obligations of any
25 one governmental unit or instrumentality may not
26 exceed 20 percent of the insurer's capital and surplus;

27 Revisor's Note

28 Section 4(b), V.T.I.C. Article 3.33, refers to a
29 "city." The revised law substitutes "municipality"
30 for "city" for the reason stated in Revisor's Note (6)
31 to Section 425.002.

32 Revised Law

33 Sec. 425.110. AUTHORIZED INVESTMENTS: OBLIGATIONS OF AND
34 OTHER INVESTMENTS IN BUSINESS ENTITIES. (a) In this section:

35 (1) "Business entity" includes a sole proprietorship,
36 corporation, association, general or limited partnership, limited
37 liability company, joint-stock company, joint venture, trust, or
38 other form of business organization, regardless of whether
39 organized for profit, that is organized under the laws of the United
40 States, another state, Canada, or any district, province, or
41 territory of Canada.

42 (2) "Counterparty exposure amount" has the meaning
43 assigned by Section 425.125.

44 (b) Subject to this section, an insurance company may invest

1 in an obligation, including a bond or evidence of indebtedness, a
2 participation in a bond or evidence of indebtedness, or an
3 asset-backed security, that is issued, assumed, guaranteed, or
4 insured by a business entity.

5 (c) An insurance company's investments in the obligations
6 or counterparty exposure amounts of a single business entity rated
7 by the securities valuation office may not exceed 20 percent of the
8 company's statutory capital and surplus.

9 (d) An insurance company may not invest in an obligation,
10 counterparty exposure amount, or preferred stock of a business
11 entity if, after making the investment:

12 (1) the aggregate amount of those investments then
13 held by the company that are rated 3, 4, 5, or 6 by the securities
14 valuation office would exceed 20 percent of the company's assets;

15 (2) the aggregate amount of those investments then
16 held by the company that are rated 4, 5, or 6 by the securities
17 valuation office would exceed 10 percent of the company's assets;

18 (3) the aggregate amount of those investments then
19 held by the company that are rated 5 or 6 by the securities
20 valuation office would exceed three percent of the company's
21 assets; or

22 (4) the aggregate amount of those investments then
23 held by the company that are rated 6 by the securities valuation
24 office would exceed one percent of the company's assets.

25 (e) If an insurance company attains or exceeds the limit of
26 a rating category referred to in Subsection (d), the company is not
27 precluded from acquiring investments in other rating categories
28 subject to the specific and multiple category limits applicable to
29 those investments.

30 (f) Notwithstanding Subsections (c)-(e), an insurance
31 company may invest in an additional obligation of a business entity
32 in which the company holds one or more obligations if the investment
33 is made to protect an investment previously made in that business
34 entity. Obligations invested in under this subsection may not

1 exceed one-half percent of the company's assets.

2 (g) This section does not prohibit an insurance company from
3 investing in an obligation as a result of a restructuring of an
4 already held obligation or preferred stock that is rated 3, 4, 5, or
5 6 by the securities valuation office.

6 (h) An insurance company shall include all counterparty
7 exposure amounts in determining compliance with the limitations of
8 this section. (V.T.I.C. Art. 3.33, Secs. 4(c), (u)(5).)

9 Source Law

10 [Sec. 4. . . . the investments and transactions
11 described in the following subsections . . . are
12 authorized for the insurers subject hereto:]

13 (c) Obligations of Business Entities.
14 Obligations, including bonds or evidences of
15 indebtedness, or participations in those bonds or
16 evidences of indebtedness, or asset-backed
17 securities, that are issued, assumed, guaranteed, or
18 insured by any business entity, including a sole
19 proprietorship, a corporation, an association, a
20 general or limited partnership, a limited liability
21 company, a joint-stock company, a joint venture, a
22 trust, or any other form of business organization,
23 whether for-profit or not-for-profit, that is
24 organized under the laws of the United States, another
25 state, Canada, or any state, district, province, or
26 territory of Canada, subject to all conditions set
27 forth below:

28 (1) an insurer may acquire obligations or
29 counterparty exposure amounts, as defined in
30 Subsection (u), in any one business entity rated by the
31 Securities Valuation Office of the National
32 Association of Insurance Commissioners, but not to
33 exceed 20 percent of the insurer's statutory capital
34 and surplus;

35 (2) an insurer shall not acquire an
36 obligation, counterparty exposure amount or preferred
37 stock of any business entity if, after giving effect to
38 the investment:

39 (A) the aggregate amount of such
40 investments then held by the insurer that are rated 3,
41 4, 5 or 6 by the Securities Valuation Office of the
42 National Association of Insurance Commissioners would
43 exceed 20 percent of its assets;

44 (B) the aggregate amount of such
45 investments then held by the insurer that are rated 4,
46 5, or 6 by the Securities Valuation Office would exceed
47 10 percent of its assets;

48 (C) the aggregate amount of such
49 investments then held by the insurer that are rated 5
50 or 6 by the Securities Valuation Office would exceed
51 three percent of its assets; or

52 (D) the aggregate amount of such
53 investments then held by the insurer that are rated 6
54 by the Securities Valuation Office would exceed one
55 percent of its assets.

56 If an insurer attains or exceeds the limit
57 of any one rating category referred to in this

1 subsection, the insurer shall not be precluded from
2 acquiring investments in other rating categories
3 subject to the specific and multiple category limits
4 applicable to those investments;

5 (3) notwithstanding the foregoing, an
6 insurer may acquire an obligation of a business entity
7 in which the insurer already holds one or more
8 obligations if the obligation is acquired in order to
9 protect an investment previously made in that business
10 entity, but obligations so acquired may not exceed
11 one-half percent of the insurer's assets; and

12 (4) this subsection does not prohibit an
13 insurer from acquiring an obligation as a result of a
14 restructuring of an already held obligation or
15 preferred stock that is rated 3, 4, 5 or 6 by the
16 Securities Valuation Office;

17 (u)
18 (5) An insurer shall include all
19 counterparty exposure amounts in determining
20 compliance with the limitations of Subsection (c).

21 Revisor's Note

22 Section 4(c), V.T.I.C. Article 3.33, refers to
23 "any state, district, province, or territory of
24 Canada." The revised law omits the reference to a
25 "state" of Canada because that country does not have
26 "states."

27 Revised Law

28 Sec. 425.111. AUTHORIZED INVESTMENTS: BONDS ISSUED,
29 ASSUMED, OR GUARANTEED IN INTERNATIONAL MARKET. (a) Subject to
30 this section, an insurance company may invest in bonds issued,
31 assumed, or guaranteed by:

32 (1) the Inter-American Development Bank;

33 (2) the International Bank for Reconstruction and
34 Development (the World Bank);

35 (3) the Asian Development Bank;

36 (4) the State of Israel;

37 (5) the African Development Bank; and

38 (6) the International Finance Corporation.

39 (b) An insurance company's investments in the bonds of a
40 single entity under this section may not exceed 20 percent of the
41 company's capital and surplus.

42 (c) The aggregate of all investments made by an insurance
43 company under this section may not exceed 20 percent of the

1 company's assets. (V.T.I.C. Art. 3.33, Sec. 4(d).)

2 Source Law

3 [Sec. 4. . . . the investments and transactions
4 described in the following subsections . . . are
5 authorized for the insurers subject hereto:]

6 (d) International Market. Bonds issued,
7 assumed, or guaranteed by the Interamerican
8 Development Bank, the International Bank for
9 Reconstruction and Development (the World Bank), the
10 Asian Development Bank, the State of Israel, the
11 African Development Bank, and the International
12 Finance Corporation; provided:

13 (1) investments in the bonds of any one of
14 the entities specified above may not exceed 20 percent
15 of the insurer's capital and surplus; and

16 (2) the aggregate of all investments made
17 under this subsection may not exceed 20 percent of the
18 insurer's assets;

19 Revised Law

20 Sec. 425.112. AUTHORIZED INVESTMENTS: POLICY LOANS. An
21 insurance company may invest in loans on the security of the
22 company's own policies in an amount that does not exceed the amount
23 of the reserve values of those policies. (V.T.I.C. Art. 3.33, Sec.
24 4(e).)

25 Source Law

26 [Sec. 4. . . . the investments and transactions
27 described in the following subsections . . . are
28 authorized for the insurers subject hereto:]

29 (e) Policy Loans. Loans upon the security of
30 the insurer's own policies not in excess of the amount
31 of the reserve values thereof;

32 Revised Law

33 Sec. 425.113. AUTHORIZED INVESTMENTS: DEPOSITS IN CERTAIN
34 FINANCIAL INSTITUTIONS. (a) Subject to this section, an insurance
35 company may invest in any type of savings deposit, time deposit,
36 certificate of deposit, NOW account, or money market account in a
37 solvent bank, savings and loan association, or credit union that is
38 organized under the laws of the United States or a state, or in a
39 branch of one of those financial institutions.

40 (b) An investment under this section must be made in
41 accordance with the laws or regulations applicable to the bank,
42 savings and loan association, or credit union.

43 (c) The amount of an insurance company's deposits in a

1 single bank, savings and loan association, or credit union may not
2 exceed the greater of:

- 3 (1) 20 percent of the company's capital and surplus;
4 (2) the amount of federal or state deposit insurance
5 coverage that applies to the deposits; or
6 (3) 10 percent of the amount of capital, surplus, and
7 undivided profits of the financial institution receiving the
8 deposits. (V.T.I.C. Art. 3.33, Sec. 4(f).)

9 Source Law

10 [Sec. 4. . . . the investments and transactions
11 described in the following subsections . . . are
12 authorized for the insurers subject hereto:]

13 (f) Time and Savings Deposits. Any type or form
14 of savings deposits, time deposits, certificates of
15 deposit, NOW accounts, and money market accounts in
16 solvent banks, savings and loan associations, and
17 credit unions and branches thereof, organized under
18 the laws of the United States of America or its states,
19 when made in accordance with the laws or regulations
20 applicable to such entities; provided the amount of
21 the deposits in any one bank, savings and loan
22 association, or credit union will not exceed the
23 greater of:

- 24 (1) 20 percent of the insurer's capital and
25 surplus;
26 (2) the amount of federal or state deposit
27 insurance coverage pertaining to such deposit; or
28 (3) 10 percent of the amount of capital,
29 surplus, and undivided profits of the entity receiving
30 such deposits;

31 Revisor's Note

32 Section 4(f), V.T.I.C. Article 3.33, refers to
33 any "type or form" of deposit in a financial
34 institution. The revised law omits the reference to
35 "form" because, in this context, the term is included
36 in the meaning of "type."

37 Revised Law

38 Sec. 425.114. AUTHORIZED INVESTMENTS: INSURANCE COMPANY
39 INVESTMENT POOLS. (a) In this section, "affiliate" means, with
40 respect to a person, another person that, directly or indirectly
41 through one or more intermediaries, controls, is controlled by, or
42 is under common control with the person.

43 (b) Subject to Subsections (c)-(g), an insurance company

1 may acquire investments in an investment pool that invests only in:

2 (1) obligations that have a rating by the securities
3 valuation office of one or two, or an equivalent rating issued by a
4 nationally recognized statistical rating organization recognized
5 by the securities valuation office, or that are issued by an issuer
6 with outstanding obligations that have a securities valuation
7 office one or two rating or an equivalent rating described by this
8 subdivision, and that:

9 (A) have a remaining maturity of 397 days or less
10 or a put that:

11 (i) entitles the holder to receive the
12 principal amount of the obligation; and

13 (ii) may be exercised through maturity at
14 specified intervals not exceeding 397 days; or

15 (B) have a remaining maturity of three years or
16 less and a floating interest rate that resets at least quarterly on
17 the basis of a current short-term index (federal funds, prime rate,
18 treasury bills, London InterBank Offered Rate, or commercial paper)
19 and is not subject to a maximum limit, if the obligations do not
20 have an interest rate that varies inversely to market interest rate
21 changes;

22 (2) securities lending, repurchase, and reverse
23 repurchase transactions that meet the requirements of Section
24 425.121 and any applicable department rules;

25 (3) money market funds as authorized by Section
26 425.123, except that a short-term investment pool may not acquire
27 investments in a single business entity that exceed 10 percent of
28 the total assets of the pool; or

29 (4) investments that an insurance company may make
30 under this subchapter, if:

31 (A) the company's proportionate interest in the
32 amount invested in those investments does not exceed the limits of
33 this subchapter; and

34 (B) the aggregate amount of the company's

1 investments in all investment pools under this subdivision does not
2 exceed 25 percent of the company's assets.

3 (c) An insurance company may not acquire an investment in an
4 investment pool under Subsection (b) if, after making the
5 investment, the aggregate amount of the company's investments in
6 all investment pools would exceed 35 percent of the company's
7 assets.

8 (d) For an investment in an investment pool to be qualified
9 under this section, the pool may not:

10 (1) acquire securities issued, assumed, guaranteed,
11 or insured by an investing insurer or an affiliate of the investing
12 insurance company; or

13 (2) borrow or incur an indebtedness for borrowed
14 money, except for securities lending and reverse repurchase
15 transactions.

16 (e) For an investment pool to be qualified under this
17 section:

18 (1) the pool manager must:

19 (A) be organized under the laws of the United
20 States or a state and designated as the pool manager in a pooling
21 agreement; or

22 (B) be:

23 (i) the investing insurance company, an
24 affiliated insurance company, a business entity affiliated with the
25 investing company, a custodian bank, a business entity registered
26 under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1
27 et seq.), as amended;

28 (ii) in the case of a reciprocal or
29 interinsurance exchange, the exchange's attorney-in-fact; or

30 (iii) in the case of a United States branch
31 of an alien insurance company, the United States manager or an
32 affiliate or subsidiary of the United States manager;

33 (2) the pool manager or an entity designated by the
34 pool manager of the type described by Subdivision (1)(B) must

1 maintain:

2 (A) detailed accounting records showing:

3 (i) the cash receipts and disbursements
4 reflecting each participant's proportionate investment in the
5 pool; and

6 (ii) a complete description of all the
7 pool's underlying assets, including the amount, interest rate,
8 maturity date, if any, and other appropriate designations; and

9 (B) other records that, on a daily basis, allow a
10 third party to verify each participant's investments in the pool;
11 and

12 (3) the assets of the pool must be held in one or more
13 accounts, in the name or on behalf of the pool, at the principal
14 office of the pool manager or under a custody agreement or trust
15 agreement with a custodian bank, provided that the agreement:

16 (A) states and recognizes the claims and rights
17 of each participant;

18 (B) acknowledges that the pool's underlying
19 assets are held solely for the benefit of each participant in
20 proportion to the aggregate amount of the participant's investments
21 in the pool; and

22 (C) contains an agreement that the pool's
23 underlying assets may not be commingled with the general assets of
24 the custodian bank or any other person.

25 (f) The pooling agreement for each investment pool must be
26 in writing and must provide that:

27 (1) 100 percent of the interests in the pool must be
28 held at all times by the insurance company, the company's
29 subsidiaries or affiliates, or, in the case of a United States
30 branch of an alien insurance company, the affiliates or
31 subsidiaries of the United States manager, and any unaffiliated
32 insurance company;

33 (2) the pool's underlying assets may not be commingled
34 with the general assets of the pool manager or any other person;

1 (3) in proportion to the aggregate amount of each pool
2 participant's interest in the pool:

3 (A) each participant owns an undivided interest
4 in the pool's underlying assets; and

5 (B) the pool's underlying assets are held solely
6 for the benefit of each participant;

7 (4) a participant, or, in the event of the
8 participant's insolvency, bankruptcy, or receivership, the
9 participant's trustee, receiver, conservator, or other successor
10 in interest, may withdraw all or part of the participant's
11 investment from the pool under the terms of the pooling agreement;

12 (5) a withdrawal may be made on demand without penalty
13 or other assessment on any business day, and settlement of funds
14 must occur within a reasonable and customary period after the
15 withdrawal, except that:

16 (A) in the case of publicly traded securities,
17 the settlement period may not exceed five business days; and

18 (B) in the case of securities and investments
19 other than publicly traded securities, the settlement period may
20 not exceed 10 business days;

21 (6) the amount of a distribution under Subdivision (5)
22 must be computed after subtracting all the pool's applicable fees
23 and expenses;

24 (7) the pool manager shall distribute to a
25 participant, at the manager's discretion:

26 (A) in cash, an amount that represents the fair
27 market value of the participant's pro rata share of each of the
28 pool's underlying assets;

29 (B) in kind, an amount that represents a pro rata
30 share of each underlying asset; or

31 (C) in a combination of cash and in-kind
32 distributions, an amount that represents a pro rata share in each
33 underlying asset; and

34 (8) the pool manager shall make the records of the pool

1 available for inspection by the commissioner.

2 (g) An investment in an investment pool is not considered to
3 be an affiliate transaction under Subchapter C, Chapter 823, but
4 each pooling agreement is subject to the standards of Section
5 823.101 and the reporting requirements of Section 823.052.
6 (V.T.I.C. Art. 3.33, Sec. 4(g).)

7 Source Law

8 (g) Insurer Investment Pools. For the purposes
9 of this Subsection (g), the following definition shall
10 apply:

11 (A) "Affiliate" means, as to any
12 person, another person that, directly or indirectly
13 through one or more intermediaries, controls, is
14 controlled by, or is under common control with the
15 person.

16 (1) An insurer may acquire investments in
17 investment pools that:

18 (A) invest only in:

19 (i) obligations that are rated
20 1 or 2 by the Securities Valuation Office or have an
21 equivalent of a Securities Valuation Office 1 or 2
22 rating (or, in the absence of a 1 or 2 rating or
23 equivalent rating, the issuer has outstanding
24 obligations with a Securities Valuation Office 1 or 2
25 or equivalent rating) by a nationally recognized
26 statistical rating organization recognized by the
27 Securities Valuation Office and have:

28 (a) a remaining maturity
29 of 397 days or less or a put that entitles the holder to
30 receive the principal amount of the obligation which
31 put may be exercised through maturity at specified
32 intervals not exceeding 397 days; or

33 (b) a remaining maturity
34 of three years or less and a floating interest rate
35 that resets no less frequently than quarterly on the
36 basis of a current short-term index (federal funds,
37 prime rate, treasury bills, London InterBank Offered
38 Rate (LIBOR) or commercial paper) and is subject to no
39 maximum limit, if the obligations do not have an
40 interest rate that varies inversely to market interest
41 rate changes;

42 (ii) securities lending,
43 repurchase and reverse repurchase transactions that
44 meet the requirements of Subsection (q) and any
45 applicable regulations of the department; or

46 (iii) money market mutual funds
47 as authorized in Subsection (s); provided that this
48 short-term investment pool shall not acquire
49 investments in any one business entity that exceed 10
50 percent of the total assets of the investment pool;

51 (B) invest only in investments which
52 an insurer may acquire under this article, if the
53 insurer's proportionate interest in the amount
54 invested in these investments does not exceed the
55 applicable limits of this article, and the aggregate
56 amount of all investments in such other investment
57 pools may not exceed 25 percent of the insurer's
58 assets.

59 (2) An insurer shall not acquire an
60 investment in an investment pool under this subsection

1 if after giving effect to the investment, the
2 aggregate amount of investments in all investment
3 pools then held by the insurer would exceed 35 percent
4 of its assets.

5 (3) For an investment in an investment
6 pool to be qualified under this article, the
7 investment pool shall not:

8 (A) acquire securities issued,
9 assumed, guaranteed or insured by the insurer or an
10 affiliate of the insurer;

11 (B) borrow or incur any indebtedness
12 for borrowed money, except for securities lending and
13 reverse repurchase transactions.

14 (4) For an investment pool to be qualified
15 under this article:

16 (A) the manager of the investment
17 pool shall:

18 (i) be organized under the laws
19 of the United States or a state and designated as the
20 pool manager in a pooling agreement;

21 (ii) be the insurer, an
22 affiliated insurer, a business entity affiliated with
23 the insurer, a custodian bank, a business entity
24 registered under the Investment Advisors Act of 1940
25 (15 U.S.C. Section 80a-1 et seq.), as amended, or, in
26 the case of a reciprocal insurer or interinsurance
27 exchange, its attorney-in-fact or, in the case of a
28 United States branch of an alien insurer, its United
29 States manager or affiliates or subsidiaries of its
30 United States manager;

31 (B) the pool manager or an entity
32 designated by the pool manager of the type set forth in
33 (4)(A)(ii) shall maintain detailed accounting records
34 setting forth:

35 (i) the cash receipts and
36 disbursements reflecting each participant's
37 proportionate investment in the investment pool;

38 (ii) a complete description of
39 all underlying assets of the investment pool
40 (including amount, interest rate, maturity date (if
41 any) and other appropriate designations); and

42 (iii) other records which, on a
43 daily basis, allow third parties to verify each
44 participant's investments in the investment pool;

45 (C) the assets of the investment pool
46 shall be held in one or more accounts, in the name or on
47 behalf of the investment pool, either (i) under a
48 custody agreement or trust agreement with a custodian
49 bank or (ii) at the principal office of the pool
50 manager. The applicable agreement shall:

51 (i) state and recognize the
52 claims and rights of each participant;

53 (ii) acknowledge that the
54 underlying assets of the investment pool are held
55 solely for the benefit of each participant in
56 proportion to the aggregate amount of its investments
57 in the investment pool; and

58 (iii) contain an agreement that
59 the underlying assets of the investment pool shall not
60 be commingled with the general assets of the custodian
61 bank or any other person.

62 (5) The pooling agreement for each
63 investment pool shall be in writing and shall provide
64 that:

65 (A) the insurer, its subsidiaries,
66 affiliates or, in the case of a United States branch of
67 an alien insurer, affiliates or subsidiaries of its
68 United States manager, and any unaffiliated insurer

1 shall, at all times, hold 100 percent of the interests
2 in the investment pool;

3 (B) the underlying assets of the
4 investment pool shall not be commingled with the
5 general assets of the pool manager or any other person;

6 (C) in proportion to the aggregate
7 amount of each pool participant's interest in the
8 investment pool:

9 (i) each participant owns an
10 undivided interest in the underlying assets or the
11 investment pool; and

12 (ii) the underlying assets of
13 the investment pool are held solely for the benefit of
14 each participant;

15 (D) a participant, or, in the event
16 of the participant's insolvency, bankruptcy, or
17 receivership, its trustee, receiver, conservator or
18 other successor-in-interest, may withdraw all or any
19 portion of its investment from the investment pool
20 under the terms of the pooling agreement;

21 (E) withdrawals may be made on demand
22 without penalty or other assessment on any business
23 day, but settlement of funds shall occur within a
24 reasonable and customary period thereafter provided:

25 (i) in the case of publicly traded securities,
26 settlement shall not exceed five business days, and

27 (ii) in the case of all other securities and
28 investments, settlement shall not exceed 10 business
29 days. Distributions under this paragraph shall be

30 calculated in each case net of all then applicable fees
31 and expenses of the investment pool. The pooling
32 agreement shall provide that the pool manager shall
33 distribute to a participant, at the discretion of the
34 pool manager:

35 (i) in cash, the then fair
36 market value of the participant's pro rata share of
37 each underlying asset of the investment pool;

38 (ii) in kind, a pro rata share
39 of each underlying asset; or

40 (iii) in a combination of cash
41 and in kind distributions, a pro rata share in each
42 underlying asset; and

43 (F) the pool manager shall make the
44 records of the investment pool available for
45 inspection by the commissioner.

46 (6) An investment in an investment pool
47 shall not be deemed to be an affiliate transaction
48 under Section 4, Article 21.49-1, of this code;
49 however each pooling agreement shall be subject to the
50 standards of Section 4(a), Article 21.49-1, of this
51 code and the reporting requirements of Section 3(b),
52 Article 21.49-1, of this code.

53 Revisor's Note

54 (1) Section 4(g)(1)(A)(iii), V.T.I.C. Article
55 3.33, refers to "money market mutual funds." The
56 revised law substitutes "money market funds" for
57 "money market mutual funds" for the reason stated in
58 the revisor's note to Section 425.123.

59 (2) Section 4(g)(4)(A)(ii), V.T.I.C. Article
60 3.33, refers to the "Investment Advisors Act of 1940

1 (15 U.S.C. Section 80a-1 et seq.)." The revised law
2 corrects the cite for that act to reflect its proper
3 spelling and that the act begins at 15 U.S.C. Section
4 80b-1.

5 (3) Section 4(g)(4)(A)(ii), V.T.I.C. Article
6 3.33, refers to a "reciprocal insurer or
7 interinsurance exchange," meaning the type of entity
8 organized under Chapter 942 of this code. The most
9 commonly used term for that type of entity is
10 "reciprocal or interinsurance exchange." For
11 consistent use of terminology in this code, the
12 revised law substitutes "reciprocal or interinsurance
13 exchange" for "reciprocal insurer or interinsurance
14 exchange."

15 (4) Section 4(g)(5)(C)(i), V.T.I.C. Article
16 3.33, provides that "in proportion to the aggregate
17 amount of each pool participant's interest in the
18 investment pool[,] . . . each participant owns an
19 undivided interest in the underlying assets or the
20 investment pool." It is clear that the "or" between
21 "underlying assets" and "the investment pool" is a
22 typographical error and should read "of." To say that
23 "in proportion to a participant's interest in an
24 investment pool, the participant owns an interest in
25 the pool" merely states the obvious. Additionally,
26 Section 4(g)(5)(E), V.T.I.C. Article 3.33, clearly
27 provides for distribution to a pool participant of the
28 participant's pro rata share of the pool's underlying
29 assets. Finally, similar language is found in Section
30 5(g)(3), V.T.I.C. Article 2.10-5 (revised in relevant
31 part as Section 424.111(3) of this code), which
32 applies to investments by various types of insurers;
33 that section provides that "each participant owns an
34 undivided interest in the underlying assets of the

1 investment pool in proportion to the aggregate amount
2 of each pool participant's interest in the investment
3 pool."

4 Revised Law

5 Sec. 425.115. AUTHORIZED INVESTMENTS: EQUITY INTERESTS.

6 (a) In this section, "business entity" means a real estate
7 investment trust, corporation, limited liability company,
8 association, limited partnership, joint venture, mutual fund,
9 trust, joint tenancy, or other similar form of business
10 organization, regardless of whether organized for profit.

11 (b) Subject to this section, an insurance company may invest
12 in an equity interest, including common stock, an equity investment
13 in an investment company other than a money market fund described by
14 Section 425.123, a real estate investment trust, a limited
15 partnership interest, a warrant, another right to acquire an equity
16 interest that is created by the person that owns or would issue the
17 equity in which the interest is acquired, and an equity interest in
18 a business entity that is organized under the laws of the United
19 States, a state of the United States, Canada, or a province or
20 territory of Canada.

21 (c) If a market value from a generally recognized source is
22 not available for an equity interest, the business entity or other
23 investment in which the interest is acquired must be subject to:

24 (1) an annual audit by an independent certified public
25 accountant; or

26 (2) another method of valuation acceptable to the
27 commissioner.

28 (d) An insurance company may not invest in a partnership as
29 a general partner except through an investment subsidiary.

30 (e) An insurance company's investments under this section
31 in a single business entity, other than a money market fund
32 described by Section 425.123, may not exceed 15 percent of the
33 company's capital and surplus.

34 (f) The aggregate amount of an insurance company's

1 investments under this section may not exceed 25 percent of the
2 company's assets. (V.T.I.C. Art. 3.33, Sec. 4(h).)

3 Source Law

4 [Sec. 4. . . . the investments and transactions
5 described in the following subsections . . . are
6 authorized for the insurers subject hereto:]

7 (h) Equity Interests. Equity interests
8 including common stock, equity investment in an
9 investment company (other than a money market mutual
10 fund as defined in Subsection (s) of this section),
11 real estate investment trust, limited partnership
12 interests, warrants or other rights to acquire equity
13 interests that are created by the person that owns or
14 would issue the equity to be acquired, and equity
15 interests in any business entity that is organized
16 under the laws of the United States, any of its states,
17 Canada or any province or territory of Canada
18 provided:

19 (1) if no market value from a generally
20 recognized source is available for the equity
21 interest, the business entity or other investment
22 shall be subject to an annual audit by an independent
23 certified public accountant or subject to another
24 method of valuation acceptable to the commissioner;
25 and

26 (2) an insurer shall not be permitted to
27 invest in a partnership, as a general partner, except
28 through an investment subsidiary;

29 (3) such investments in any one business
30 entity other than a money market fund defined in
31 Subsection (s) may not exceed 15 percent of the
32 insurer's capital and surplus;

33 (4) the aggregate amount of all
34 investments made under this subsection may not exceed
35 25 percent of the insurer's assets.

36 For purposes of this subsection, a business
37 entity shall mean a real estate investment trust,
38 corporation, limited liability company, association,
39 limited partnership, joint venture, mutual fund,
40 trust, joint tenancy or other similar form of business
41 organization, whether organized for profit or
42 not-for-profit.

43 Revisor's Note

44 Section 4(h), V.T.I.C. Article 3.33, refers to "a
45 money market mutual fund." The revised law substitutes
46 "money market fund" for "money market mutual fund" for
47 the reason stated in the revisor's note to Section
48 425.123.

49 Revised Law

50 Sec. 425.116. AUTHORIZED INVESTMENTS: PREFERRED STOCK.

51 (a) Subject to this section, an insurance company may invest in
52 preferred stock of a business entity, as defined by Section

1 425.110.

2 (b) An insurance company may invest in preferred stock only
3 if:

4 (1) the stock is rated by the securities valuation
5 office; and

6 (2) the sum of the company's aggregate investment in
7 preferred stock rated 3, 4, 5, or 6 and the company's investments
8 under Section 425.110(d) does not exceed the limitations specified
9 by Section 425.110(d).

10 (c) An insurance company's investments in the preferred
11 stock of a single business entity may not exceed 20 percent of the
12 company's capital and surplus.

13 (d) The aggregate amount of an insurance company's
14 investments in preferred stock as to which there is not a sinking
15 fund for the redemption and retirement of the stock that meets the
16 standards established by the National Association of Insurance
17 Commissioners may not exceed 10 percent of the company's assets.

18 (e) The aggregate amount of an insurance company's
19 investments under this section may not exceed 40 percent of the
20 company's assets. (V.T.I.C. Art. 3.33, Sec. 4(i).)

21 Source Law

22 [Sec. 4. . . . the investments and transactions
23 described in the following subsections . . . are
24 authorized for the insurers subject hereto:]

25 (i) Preferred Stock. Preferred stock of
26 business entities as described in Subsection (c) of
27 this section; provided:

28 (1) investments in the preferred stock of
29 any one business entity will not exceed 20 percent of
30 the insurer's capital and surplus;

31 (2) the preferred stock is rated by the
32 Securities Valuation Office, and the aggregate
33 investment in preferred stock rated 3, 4, 5, or 6, when
34 added to the investments under Subsection (c)(2) do
35 not result in the combined total of such investments
36 exceeding the limitations specified in Subsection
37 (c)(2);

38 (3) in the aggregate not more than 10
39 percent of the insurer's assets may be invested in
40 preferred stock, the redemption and retirement of
41 which is not provided for by a sinking fund meeting the
42 standards established by the National Association of
43 Insurance Commissioners; and

44 (4) the aggregate of all investments made
45 under this subsection may not exceed 40 percent of the

insurer's assets;

Revised Law

Sec. 425.117. AUTHORIZED INVESTMENTS: COLLATERAL LOANS.

(a) Subject to this section, an insurance company may invest in a collateral loan secured by:

(1) a first lien on an asset; or

(2) a valid and perfected first security interest in an asset.

(b) The amount of a loan invested in under this section may not exceed 80 percent of the value of the collateral asset at any time during the duration of the loan.

(c) The asset used as collateral for a loan under this section must be an asset, other than real property described by Section 425.119, in which the insurance company is authorized by this subchapter to directly invest. (V.T.I.C. Art. 3.33, Sec. 4(j).)

Source Law

[Sec. 4. . . . the investments and transactions described in the following subsections . . . are authorized for the insurers subject hereto:]

(j) Collateral Loans. Collateral loans secured by a first lien upon or a valid and perfected first security interest in an asset; provided:

(1) the amount of any such collateral loan will not exceed 80 percent of the value of the collateral asset at any time during the duration of the loan; and

(2) the asset used as collateral would be authorized for direct investment by the insurer under other provisions of this Section 4, except real property in Subsection (1);

Revisor's Note

Section 4(j)(2), V.T.I.C. Article 3.33, refers to an asset that would be authorized for direct investment by an insurance company "under other provisions of this Section 4." The revised law substitutes a reference to an investment authorized by "this subchapter." Although this subchapter includes provisions derived from other sections of Article 3.33, the only provisions included in this subchapter

that authorize investments by insurance companies were derived from Section 4.

Revised Law

Sec. 425.118. AUTHORIZED INVESTMENTS: OBLIGATIONS SECURED BY REAL PROPERTY LOANS. (a) Subject to this section, an insurance company may invest in a note, an evidence of indebtedness, or a participation in a note or evidence of indebtedness that is secured by a valid first lien on real property or a leasehold estate in real property located in the United States.

(b) The amount of an obligation secured by a first lien on real property or a leasehold estate in real property may exceed 90 percent of the value of the real property or leasehold estate only if:

(1) the amount does not exceed 100 percent of the value of the real property or leasehold estate and the insurance company or one or more wholly owned subsidiaries of the company owns, in the aggregate, a 10 percent or greater equity interest in the real property or leasehold estate;

(2) the amount does not exceed 95 percent of the value of the real property or leasehold estate and:

(A) the property contains only a dwelling designed exclusively for occupancy by not more than four families for residential purposes; and

(B) the portion of the unpaid balance of the obligation that exceeds 90 percent of the value of the property or leasehold estate is guaranteed or insured by a mortgage guaranty insurer authorized to engage in business in this state; or

(3) the amount exceeds 90 percent of the value of the real property or leasehold estate only to the extent the obligation is insured or guaranteed by:

(A) the United States;

(B) the Federal Housing Administration under the National Housing Act (12 U.S.C. Section 1701 et seq.), as amended;

or

1 (C) this state.

2 (c) The term of an obligation secured by a first lien on a
3 leasehold estate in real property may not, as of the date the
4 obligation is acquired, exceed a period equal to four-fifths of the
5 unexpired term of the leasehold estate, and the obligation must
6 fully amortize during that period. The term of the leasehold estate
7 may not expire sooner than the 10th anniversary of the expiration
8 date of the term of the obligation.

9 (d) An obligation secured by a first lien on a leasehold
10 estate in real property must be payable in one or more installments
11 of an amount or amounts sufficient to ensure that, at any time after
12 the expiration of two-thirds of the original term of the
13 obligation, the principal balance on the obligation is not greater
14 than the principal balance would have been if the obligation had
15 been amortized over the original term of the obligation in equal
16 monthly, quarterly, semiannual, or annual payments of principal and
17 interest.

18 (e) If any part of the value of buildings is to be included
19 in the value of real property or a leasehold estate in real property
20 to secure an obligation under this section:

21 (1) the buildings must be covered by adequate property
22 insurance, including fire and extended coverage insurance, issued
23 by:

24 (A) an insurer authorized to engage in business
25 in this state; or

26 (B) an insurer recognized as acceptable to issue
27 that coverage by the insurance regulatory official of the state in
28 which the real property is located;

29 (2) the amount of insurance provided by one or more
30 policies may not be less than the lesser of:

31 (A) the unpaid balance of the obligation; or

32 (B) the insurable value of the buildings; and

33 (3) the loss clause under each policy must be payable
34 to the insurance company as the company's interest may appear.

1 (f) To the extent that a note, evidence of indebtedness, or
2 participation in a note or evidence of indebtedness under this
3 section represents an equity interest in the underlying real
4 property:

5 (1) the value of that equity interest must be
6 determined at the time the note, evidence of indebtedness, or
7 participation is executed; and

8 (2) the portion of the obligation that represents an
9 equity interest in the property must be designated as an investment
10 subject to Section 425.119(c).

11 (g) An insurance company's investment in a single
12 obligation under this section may not exceed 25 percent of the
13 company's capital and surplus.

14 (h) An insurance company may purchase a first lien on real
15 property after the origination of the lien if:

16 (1) the first lien is insured by a mortgagee's title
17 policy issued to the original mortgagee that contains a provision
18 that inures the policy to the use and benefit of the owners of the
19 evidence of indebtedness indicated in the policy and to any
20 subsequent owners of that evidence of indebtedness; and

21 (2) the company maintains evidence of an assignment or
22 other transfer of the first lien on real property to the company.

23 (i) For purposes of Subsection (h)(2), an assignment or
24 other transfer to the insurance company that is duly recorded in the
25 county in which the real property is located is presumed to create
26 legal ownership of the first lien by the company. (V.T.I.C.
27 Art. 3.33, Sec. 4(k).)

28 Source Law

29 [Sec. 4. . . . the investments and transactions
30 described in the following subsections . . . are
31 authorized for the insurers subject hereto:]

32 (k) Real Estate Loans. Notes, evidences of
33 indebtedness, or participations therein secured by a
34 valid first lien upon real property or leasehold
35 estate therein located in the United States of
36 America; provided:

37 (1) the amount of any such obligation
38 secured by a first lien upon real property or leasehold

1 estate therein shall not exceed 90 percent of the value
2 of such real property or leasehold estate therein, but
3 the amount of such obligation:

4 (A) may exceed 90 percent but shall
5 not exceed 100 percent of the value of such real
6 property or leasehold estate therein if the insurer or
7 one or more wholly owned subsidiaries of the insurer
8 owns in the aggregate a 10 percent or greater equity
9 interest in such real property or leasehold estate
10 therein;

11 (B) may be 95 percent of the value of
12 such real property or leasehold estate therein if it
13 contains only a dwelling designed exclusively for
14 occupancy by not more than four families for
15 residential purposes, and the portion of the unpaid
16 balance of such obligation which is in excess of an
17 amount equal to 90 percent of such value is guaranteed
18 or insured by a mortgage insurance company qualified
19 to do business in the State of Texas; or

20 (C) may be greater than 90 percent of
21 the value of such real property or leasehold estate
22 therein to the extent the obligation is insured or
23 guaranteed by the United States of America, the
24 Federal Housing Administration pursuant to the
25 National Housing Act of 1934, as amended (12 U.S.C.
26 Section 1701 et seq.), or the State of Texas; and

27 (2) the term of an obligation secured by a
28 first lien upon a leasehold estate in real property
29 shall not exceed a period equal to four-fifths of the
30 then unexpired term of such leasehold estate; provided
31 the unexpired term of the leasehold estate must extend
32 at least 10 years beyond the term of the obligation,
33 and each obligation shall be payable in an installment
34 or installments of sufficient amount or amounts so
35 that at any time after the expiration of two-thirds of
36 the original loan term, the principal balance will be
37 no greater than the principal balance would have been
38 if the loan had been amortized over the original loan
39 term in equal monthly, quarterly, semiannual, or
40 annual payments of principal and interest, it being
41 required that under any method of repayment such
42 obligation will fully amortize during a period of time
43 not exceeding four-fifths of the then unexpired term
44 of the security leasehold estate; and

45 (3) if any part of the value of buildings
46 is to be included in the value of such real property or
47 leasehold estate therein to secure the obligations
48 provided for in this subsection, such buildings shall
49 be covered by adequate property insurance, including
50 but not limited to fire and extended coverage
51 insurance issued by a company authorized to transact
52 business in the State of Texas or by a company
53 recognized as acceptable for such purpose by the
54 insurance regulatory official of the state in which
55 such real estate is located, and the amount of
56 insurance granted in the policy or policies shall be
57 not less than the unpaid balance of the obligation or
58 the insurable value of such buildings, whichever is
59 the lesser; the loss clause shall be payable to the
60 insurer as its interest may appear; and

61 (4) to the extent any note, evidence of
62 indebtedness, or participation therein under this
63 subsection represents an equity interest in the
64 underlying real property, the value of such equity
65 interest shall be determined at the time of execution
66 of such note, evidence of indebtedness, or
67 participation therein and that portion shall be
68 designated as an investment subject to the provisions

1 of Subsection (1)(2) of this section; and

2 (5) the amount of any one such obligation
3 may not exceed 25 percent of the insurer's capital and
4 surplus; and

5 (6) a first lien on real property may be
6 purchased after its origination if the first lien is
7 insured by a mortgagee's title policy issued to the
8 original mortgagee that contains a provision that
9 inures the policy to the use and benefit of the owners
10 of the evidence of debt indicated in the policy and to
11 any subsequent owners of that evidence of debt, and if
12 the insurer maintains evidence of assignments or other
13 transfers of the first lien on real property to the
14 insurer. An assignment or other transfer to the
15 insurer, duly recorded in the county in which the real
16 property is located, shall be presumed to create legal
17 ownership of the first lien by the insurer;

18 Revisor's Note

19 Section 4(k)(1)(B), V.T.I.C. Article 3.33,
20 refers to a "mortgage insurance company" that is
21 "qualified" to engage in business. The revised law
22 substitutes "mortgage guaranty insurer" for "mortgage
23 insurance company" for consistency with the
24 terminology used in V.T.I.C. Article 21.50, revised in
25 this code as Chapter 3502, which regulates mortgage
26 guaranty insurance. The revised law also substitutes
27 "authorized" for "qualified" because "certificate of
28 authority" is the term used throughout this code in
29 relation to an entity's authority to engage in
30 business.

31 Revised Law

32 Sec. 425.119. AUTHORIZED INVESTMENTS: REAL PROPERTY. (a)
33 Subject to this section, an insurance company may invest in a real
34 property fee simple or leasehold estate located in the United
35 States.

36 (b) An insurance company may invest in home and branch
37 office real property or a participation in home or branch office
38 real property. At least 30 percent of the available space in a
39 building used as a home or branch office must be occupied for the
40 business purposes of the company and the company's affiliates. A
41 company's aggregate investment in home and branch office real
42 property may not exceed 20 percent of the company's assets.

1 (c) An insurance company may invest in real property other
2 than home and branch office real property or participations in home
3 and branch office real property. A company's investment under this
4 subsection in a single piece of property or in an interest in a
5 single piece of property, including improvements, fixtures, and
6 equipment relating to the property, may not exceed five percent of
7 the company's assets.

8 (d) Investment real property held under Subsection (b) or
9 (c) must be materially enhanced in value by:

10 (1) the construction of durable, permanent-type
11 buildings and other improvements that cost an amount at least equal
12 to the cost of the real property, excluding buildings and
13 improvements at the time the real property is acquired; or

14 (2) the construction, commenced before the second
15 anniversary of the date the real property is acquired, of buildings
16 and improvements described by Subdivision (1).

17 (e) The admissible asset value of each investment in real
18 property under Subsection (b) or (c) is subject to review and
19 approval by the commissioner. The commissioner may, at the time the
20 investment is made or any time the insurance company is being
21 examined, have the investment appraised by an appraiser appointed
22 by the commissioner. The company shall pay the reasonable expense
23 of the appraisal. The expense of the appraisal is considered to be
24 a part of the expense of examination of the company unless the
25 company applies for the appraisal to be made. A company may not
26 increase the valuation of real property described by Subsection (b)
27 or (c) unless:

28 (1) the company applies for the increase in valuation;
29 and

30 (2) the commissioner approves the increase.

31 (f) Except as provided by Subsection (g), an insurance
32 company may not own, develop, or hold an equity interest in any
33 residential property or subdivision, single or multiunit family
34 dwelling property, or undeveloped real property to subdivide for or

1 develop residential or single or multiunit family dwellings.

2 (g) An insurance company may invest in other real property
3 acquired:

4 (1) in good faith to secure a loan previously
5 contracted for, or for money due;

6 (2) in satisfaction of a debt previously contracted
7 for in the course of the company's dealings; or

8 (3) by purchase at a sale under a judgment or decree of
9 a court or under a mortgage or other lien held by the company.

10 (h) Regardless of the manner in which an insurance company
11 acquires real property under this section, on the sale of the
12 property, the company may retain indefinitely the fee title to the
13 mineral estate or any portion of the mineral estate. (V.T.I.C.
14 Art. 3.33, Sec. 4(1).)

15 Source Law

16 [Sec. 4. . . . the investments and transactions
17 described in the following subsections . . . are
18 authorized for the insurers subject hereto:]

19 (1) Real Estate. Real property fee simple or
20 leasehold estates located within the United States of
21 America, as follows:

22 (1) home and branch office real property
23 or participations therein, which must be materially
24 enhanced in value by the construction of durable,
25 permanent-type buildings and other improvements
26 costing an amount at least equal to the cost of such
27 real property, exclusive of buildings and improvements
28 at the time of acquisition, or by the construction of
29 such buildings and improvements which must be
30 commenced within two years of the date of the
31 acquisition of such real property; provided:

32 (A) at least 30 percent of the
33 available space in such building shall be occupied for
34 the business purposes of the insurer and its
35 affiliates; and

36 (B) the aggregate investment in such
37 home and branch offices shall not exceed 20 percent of
38 the insurer's assets; and

39 (2) other investment property or
40 participations therein, which must be materially
41 enhanced in value by the construction of durable,
42 permanent-type buildings and other improvements
43 costing an amount at least equal to the cost of such
44 real property, exclusive of buildings and improvements
45 at the time of acquisition, or by the construction of
46 such buildings and improvements which must be
47 commenced within two years of the date of acquisition
48 of such real property; provided that such investment
49 in any one piece of property or interest therein,
50 including the improvements, fixtures, and equipment
51 pertaining thereto may not exceed five percent of the

insurer's assets; provided, however, nothing in this article shall allow ownership of, development of, or equity interest in any residential property or subdivision, single or multiunit family dwelling property, or undeveloped real estate for the purpose of subdivision for or development of residential, single, or multiunit family dwellings, except acquisitions as provided in Subdivision (4) below, and such ownership, development, or equity interests shall be specifically prohibited;

(3) the admissible asset value of each such investment in the properties acquired under Subdivisions (1) and (2) of this subsection shall be subject to review and approval by the Commissioner of Insurance. The commissioner shall have discretion at the time such investment is made or any time when an examination of the company is being made to cause any such investment to be appraised by an appraiser, appointed by the commissioner, and the reasonable expense of such appraisal shall be paid by such insurance company and shall be deemed to be a part of the expense of examination of such company; if the appraisal is made upon application of the company, the expense of such appraisal shall not be considered a part of the expense of examination of such company; no insurance company may hereafter make any write-up in the valuation of any of the properties described in Subdivision (1) or (2) of this subsection unless and until it makes application therefor and such increase in valuation shall be approved by the commissioner; and

(4) other real property acquired:

(A) in good faith by way of security for loans previously contracted or money due; or

(B) in satisfaction of debts previously contracted for in the course of its dealings; or

(C) by purchase at sales under judgment or decrees of court, or mortgage or other lien held by such insurer; and

(5) regardless of the mode of acquisition specified herein, upon sale of any such real property, the fee title to the mineral estate or any portion thereof may be retained by the insurance company indefinitely;

Revisor's Note

Section 4(1)(3), V.T.I.C. Article 3.33, refers to a "write-up" in the valuation of an asset and to "such increase" in valuation. The revised law substitutes "increase" for "write-up" because, in context, the terms are synonymous and "increase" is the more modern term.

Revised Law

Sec. 425.120. AUTHORIZED INVESTMENTS: OIL, GAS, AND MINERALS. (a) In this section:

(1) "Producing" means producing oil, gas, or other

1 minerals in paying quantities. A well that has been shut in is
2 considered to be producing oil, gas, or other minerals in paying
3 quantities if shut-in royalties are being paid.

4 (2) "Production payment" means a right to oil, gas, or
5 other minerals in place or as produced that entitles the owner of
6 the right to a specified fraction of production until the owner
7 receives a specified amount of money, or a specified number of units
8 of oil, gas, or other minerals.

9 (3) "Royalty" or "overriding royalty" means a right to
10 oil, gas, and other minerals in place or as produced that entitles
11 the owner of the right to a specified fraction of production without
12 limitation to a specified amount of money or a specified number of
13 units of oil, gas, or other minerals.

14 (b) Subject to this section, in addition to and without
15 limitation on the purposes for which real property may be acquired,
16 secured, held, or retained under other provisions of this
17 subchapter, an insurance company may secure, hold, retain, and
18 convey production payments, producing royalties, and producing
19 overriding royalties, or participations in production payments,
20 producing royalties, or producing overriding royalties as an
21 investment for the production of income.

22 (c) An insurance company may not carry an asset described by
23 Subsection (b) in an amount that exceeds 90 percent of the appraised
24 value of the asset.

25 (d) A single investment under this section may not exceed 10
26 percent of the amount of the insurance company's capital and
27 surplus that exceeds the statutory minimum capital and surplus
28 applicable to the company.

29 (e) The aggregate amount of an insurance company's
30 investments under this section may not exceed 10 percent of the
31 company's assets as of December 31 preceding the date of the
32 investment. (V.T.I.C. Art. 3.33, Sec. 4(m).)

33 Source Law

34 (m) Oil, Gas, and Minerals. In addition to and

1 without limitation on the purposes for which real
2 property may be acquired, secured, held, or retained
3 pursuant to other provisions of this section, every
4 such insurance company may secure, hold, retain, and
5 convey production payments, producing royalties and
6 producing overriding royalties, or participations
7 therein as an investment for the production of income;
8 provided:

9 (1) in no event may such company carry such
10 assets in an amount in excess of 90 percent of the
11 appraised value thereof; and

12 (2) no one investment under this
13 subsection may exceed 10 percent of the insurer's
14 capital and surplus in excess of statutory minimum
15 capital and surplus applicable to that insurer, and
16 the aggregate of all such investments may not exceed 10
17 percent of the insurer's assets as of December 31st
18 next preceding the date of such investment; and

19 (3) for the purposes of this subsection,
20 the following definitions apply:

21 (A) a production payment is defined
22 to mean a right to oil, gas, or other minerals in place
23 or as produced that entitles its owner to a specified
24 fraction of production until a specified sum of money,
25 or a specified number of units of oil, gas, or other
26 minerals, has been received;

27 (B) a royalty and an overriding
28 royalty are each defined to mean a right to oil, gas,
29 and other minerals in place or as produced that
30 entitles the owner to a specified fraction of
31 production without limitation to a specified sum of
32 money or a specified number of units of oil, gas, or
33 other minerals;

34 (C) "producing" is defined to mean
35 producing oil, gas, or other minerals in paying
36 quantities, provided that it shall be deemed that oil,
37 gas, or other minerals are being produced in paying
38 quantities if a well has been "shut in" and "shut-in
39 royalties" are being paid;

40 Revised Law

41 Sec. 425.121. AUTHORIZED INVESTMENTS: SECURITIES LENDING,
42 REPURCHASE, REVERSE REPURCHASE, AND DOLLAR ROLL TRANSACTIONS. (a)
43 In this section:

44 (1) "Dollar roll transaction" means two simultaneous
45 transactions with settlement dates not more than 96 days apart, in
46 one of which an insurance company sells to a business entity, and in
47 the other of which the company is obligated to purchase from the
48 same business entity, substantially similar securities that are:

49 (A) mortgage-backed securities issued, assumed,
50 or guaranteed by the Government National Mortgage Association, the
51 Federal National Mortgage Association, the Federal Home Loan
52 Mortgage Corporation, or a successor to one of those organizations;
53 or

1 (B) other mortgage-backed securities referred to
2 in 15 U.S.C. Section 77r-1, as amended.

3 (2) "Repurchase transaction" means a transaction in
4 which an insurance company purchases securities from a business
5 entity that is obligated to repurchase the purchased securities or
6 equivalent securities from the company at a specified price, either
7 within a specified period or on demand.

8 (3) "Reverse repurchase transaction" means a
9 transaction in which an insurance company sells securities to a
10 business entity and is obligated to repurchase the sold securities
11 or equivalent securities from the business entity at a specified
12 price, either within a specified period or on demand.

13 (4) "Securities lending transaction" means a
14 transaction in which an insurance company lends securities to a
15 business entity that is obligated to return the loaned securities
16 or equivalent securities to the company, either within a specified
17 period or on demand.

18 (b) Subject to this section, an insurance company may engage
19 in securities lending, repurchase, reverse repurchase, and dollar
20 roll transactions.

21 (c) An insurance company must enter into a written agreement
22 for each transaction under this section, other than a dollar roll
23 transaction. The agreement must require that the transaction
24 terminate on or before the first anniversary of the transaction's
25 inception.

26 (d) With respect to cash received in a transaction under
27 this section, an insurance company shall:

28 (1) invest the cash in accordance with this subchapter
29 and in a manner that recognizes the liquidity needs of the
30 transaction; or

31 (2) use the cash for the company's general corporate
32 purposes.

33 (e) While a transaction under this section is outstanding,
34 the insurance company or the company's agent or custodian shall

1 maintain, as to acceptable collateral received in the transaction,
2 either physically or through the book-entry system of the Federal
3 Reserve, Depository Trust Company, Participants Trust Company, or
4 another securities depository approved by the commissioner:

5 (1) possession of the collateral;

6 (2) a perfected security interest in the collateral;

7 or

8 (3) in the case of a jurisdiction outside of the United
9 States, title to, or rights of a secured creditor to, the
10 collateral.

11 (f) The limitations of Sections 425.110 and 425.157(b) do
12 not apply to the business entity counterparty exposure created by a
13 transaction under this section. An insurance company may not enter
14 into a transaction under this section if, as a result of and after
15 making the transaction:

16 (1) the aggregate amount of securities loaned or sold
17 to or purchased from any one business entity counterparty under
18 this section would exceed five percent of the company's assets; or

19 (2) the aggregate amount of all securities loaned or
20 sold to or purchased from all business entities under this section
21 would exceed 40 percent of the company's assets.

22 (g) For purposes of Subsection (f)(1), in computing the
23 amount sold to or purchased from a business entity counterparty
24 under a repurchase or reverse repurchase transaction, effect may be
25 given to netting provisions under a master written agreement.

26 (h) The amount of collateral required for securities
27 lending, repurchase, and reverse repurchase transactions is the
28 amount required under the Purposes and Procedures Manual of the
29 securities valuation office or a successor publication. (V.T.I.C.
30 Art. 3.33, Secs. 4(q)(a), (b), (c), (d), (e).)

31 Source Law

32 (q) Securities Lending, Repurchase, Reverse
33 Repurchase and Dollar Roll Transactions. (a) For
34 purposes of this Subsection (q), the following
35 definitions shall apply:

36 (1) "Repurchase transaction" means a

1 transaction in which an insurer purchases securities
2 from a business entity that is obligated to repurchase
3 the purchased securities or equivalent securities from
4 the insurer at a specified price, either within a
5 specified period of time or upon demand.

6 (2) "Reverse repurchase transaction"
7 means a transaction in which an insurer sells
8 securities to a business entity and is obligated to
9 repurchase the sold securities or equivalent
10 securities from the business entity at a specified
11 price, either within a specified period of time or upon
12 demand.

13 (3) "Securities lending transaction"
14 means a transaction in which securities are loaned by
15 an insurer to a business entity that is obligated to
16 return the loaned securities or equivalent securities
17 to the insurer, either within a specified period of
18 time or upon demand.

19 (4) "Dollar roll transaction" means two
20 simultaneous transactions with settlement dates no
21 more than 96 days apart so that in one transaction an
22 insurer sells to a business entity, and in the other
23 transaction the insurer is obligated to purchase from
24 the same business entity, substantially similar
25 securities of the following types:

26 (A) mortgage-backed securities
27 issued, assumed or guaranteed by the Government
28 National Mortgage Association, the Federal National
29 Mortgage Association or the Federal Home Loan Mortgage
30 Corporation or their respective successors; and

31 (B) other mortgage-backed securities
32 referred to in Section 106 of Title I of the Secondary
33 Mortgage Market Enhancement Act of 1984 (15 U.S.C.
34 Section 77r-1), as amended.

35 (b) An insurer may engage in securities lending,
36 repurchase, reverse repurchase and dollar roll
37 transactions as set forth herein. The insurer shall
38 enter into a written agreement for all transactions,
39 except dollar roll transactions, that shall require
40 each transaction terminate no more than one year from
41 its inception.

42 (c) Cash received in a transaction under this
43 section shall be invested in accordance with this
44 article and in a manner that recognizes the liquidity
45 needs of the transaction or used by the insurer for its
46 general corporate purposes. For so long as the
47 transaction remains outstanding, the insurer, its
48 agent or custodian shall maintain, as to acceptable
49 collateral received in a transaction under this
50 subsection, either physically or through the book
51 entry systems of the Federal Reserve, Depository Trust
52 Company, Participants Trust Company or other
53 securities depositories approved by the commissioner:

54 (1) possession of the acceptable
55 collateral;

56 (2) a perfected security interest in the
57 acceptable collateral; or

58 (3) in the case of a jurisdiction outside
59 of the United States, title to, or rights of a secured
60 creditor to, the acceptable collateral; and

61 (d) The limitations of Section 4(c) and Section
62 5(a) shall not apply to the business entity
63 counterparty exposure created by transactions under
64 this section. An insurer shall not enter into a
65 transaction under this subsection if, as a result of
66 and after giving effect to the transaction:

67 (1) the aggregate amount of securities
68 then loaned, sold to, or purchased from, any one

1 business entity counterparty under this subsection
2 would exceed 5 percent of its assets. In calculating
3 the amount sold to or purchased from a business entity
4 counterparty under repurchase or reverse repurchase
5 transactions, effect may be given to netting
6 provisions under a master written agreement; or

7 (2) the aggregate amount of all securities
8 then loaned, sold to or purchased from all business
9 entities under this subsection would exceed 40 percent
10 of its assets.

11 (e) The amount of collateral required for
12 securities lending, repurchase and reverse repurchase
13 transactions is the amount required pursuant to the
14 provisions of the Purposes and Procedures of the
15 Securities Valuation Office or such successor
16 publication.

17 Revisor's Note

18 (1) Section 4(q)(a)(4)(B), V.T.I.C. Article
19 3.33, refers to "Section 106 of Title I of the
20 Secondary Mortgage Market Enhancement Act of 1984 (15
21 U.S.C. Section 77r-1)." The revised law omits the
22 reference to "Section 106 of Title I of the Secondary
23 Mortgage Market Enhancement Act of 1984" as
24 unnecessary because it is simply a cite to the
25 provisions in which 15 U.S.C. Section 77r-1 was
26 originally enacted and does not add any meaning to the
27 substance of the law.

28 (2) Section 4(q)(e), V.T.I.C. Article 3.33,
29 refers to "the Purposes and Procedures of the
30 Securities Valuation Office or such successor
31 publication." Other provisions of Section 4, V.T.I.C.
32 Article 3.33, contain similar references. Throughout
33 this subchapter, the revised law substitutes "Purposes
34 and Procedures Manual" for "Purposes and Procedures"
35 because that is the correct name of that publication.

36 (3) Section 4(q)(f), V.T.I.C. Article 3.33,
37 provides that V.T.I.C. Article 3.39-1 does not apply
38 to a transaction authorized by Section 4(q), V.T.I.C.
39 Article 3.33. V.T.I.C. Article 3.39-1 was repealed by
40 Chapter 556, Acts of the 75th Legislature, Regular
41 Session, 1997. V.T.I.C. Article 3.39-1 permitted an
42 insurance company to enter into repurchase agreements,

1 subject to the limitations prescribed by that article.
2 Chapter 556, Acts of the 75th Legislature, Regular
3 Session, 1997, also added Subsection (q), revised as
4 this section, to Section 4, V.T.I.C. Article 3.33.
5 Because Section 4(q), V.T.I.C. Article 3.33,
6 effectively supersedes V.T.I.C. Article 3.39-1, the
7 revised law omits Section 4(q)(f) as unnecessary. The
8 omitted law reads:

9 (f) Article 3.39-1 shall not apply to
10 transactions authorized by this Subsection
11 (q).

12 Revised Law

13 Sec. 425.122. AUTHORIZED INVESTMENTS: PREMIUM LOANS. (a)
14 Subject to Subsection (b), an insurance company may make loans to
15 finance the payment of premiums for the company's own insurance
16 policies or annuity contracts.

17 (b) The amount of a loan under this section may not exceed
18 the sum of:

19 (1) the available cash value of the insurance policy
20 or annuity contract for which the premium loan is made; and

21 (2) the amount of any escrowed commissions payable
22 relating to the insurance policy or annuity contract. (V.T.I.C.
23 Art. 3.33, Sec. 4(r).)

24 Source Law

25 [Sec. 4. . . . the investments and transactions
26 described in the following subsections . . . are
27 authorized for the insurers subject hereto:]

28 (r) Premium Loans. Loans to finance the payment
29 of premiums for the insurer's own insurance policies or
30 annuity contracts; provided that the amount of any
31 such loan does not exceed the sum of: (i) the
32 available cash value of such insurance policy or
33 annuity contract; and (ii) the amount of any escrowed
34 commissions payable relating to such insurance policy
35 or annuity contract for which the premium loan is made;
36 and

37 Revised Law

38 Sec. 425.123. AUTHORIZED INVESTMENTS: MONEY MARKET FUNDS.
39 (a) An insurance company may invest in a money market fund as
40 described by 17 C.F.R. Section 270.2a-7 under the Investment

1 Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), that is:

2 (1) a government money market fund that:

3 (A) invests only in obligations issued,
4 guaranteed, or insured by the United States government or
5 collateralized repurchase agreements composed of these
6 obligations; and

7 (B) qualifies for investment without a reserve
8 under the Purposes and Procedures Manual of the securities
9 valuation office or a successor publication; or

10 (2) a class one money market fund that qualifies for
11 investment using the bond class one reserve factor described by the
12 Purposes and Procedures Manual of the securities valuation office
13 or a successor publication.

14 (b) For purposes of complying with Section 425.115, a money
15 market fund that qualifies for listing in the categories prescribed
16 by Subsection (a) must conform to the Purposes and Procedures
17 Manual of the securities valuation office or a successor
18 publication. (V.T.I.C. Art. 3.33, Sec. 4(s).)

19 Source Law

20 [Sec. 4. . . . the investments and transactions
21 described in the following subsections . . . are
22 authorized for the insurers subject hereto:]

23 (s) Money Market Funds. (1) Money market
24 mutual funds as defined by 17 CFR 270.2a-7 under the
25 Investment Company Act of 1940 (15 U.S.C. 80a-1 et
26 seq.) that may be either of the following:

27 (A) government money market mutual
28 fund which is a money market mutual fund that:

29 (i) invests only in obligations
30 issued, guaranteed or insured by the federal
31 government of the United States or collateralized
32 repurchase agreements composed of these obligations;
33 and

34 (ii) qualifies for investment
35 without a reserve under the Purposes and Procedures of
36 the Securities Valuation Office or any successor
37 publication; or

38 (B) class one money market mutual
39 fund which is a money market mutual fund that qualifies
40 for investment using the bond class one reserve factor
41 under the Purposes and Procedures of the Securities
42 Valuation Office or any successor publication.

43 (2) For purposes of complying with
44 Subsection (h) of this section, money market funds
45 qualifying for listing within these categories must
46 conform to the Purposes and Procedures of the
47 Securities Valuation Office or such successor

publication;

Revisor's Note

Section 4(s)(1), V.T.I.C. Article 3.33, refers to "[m]oney market mutual funds as defined by 17 CFR 270.2a-7 under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.)." Section 270.2a-7 does not define or use the term "money market mutual fund," but does prescribe requirements for a registered investment company that holds itself out as a "money market fund." Therefore, the revised law substitutes "money market fund" for "money market mutual fund."

Revised Law

Sec. 425.124. AUTHORIZED INVESTMENTS: RISK CONTROL TRANSACTIONS. Subject to Sections 425.126-425.132, an insurance company may use derivative instruments, as defined by Section 425.125, to engage in hedging transactions, replication transactions, and income generation transactions, as those terms are defined by Section 425.125. (V.T.I.C. Art. 3.33, Sec. 4(u) (part).)

Source Law

(u) Risk Control Transactions. An insurer may use derivative instruments to engage in hedging transactions, replication transactions and income generation transactions as set forth herein.

. . .

Revisor's Note

Section 4(u)(11), V.T.I.C. Article 3.33, provides that V.T.I.C. Article 3.39-2 does not apply to a transaction authorized by Section 4(u), V.T.I.C. Article 3.33. V.T.I.C. Article 3.39-2 was repealed by Chapter 556, Acts of the 75th Legislature, Regular Session, 1997. V.T.I.C. Article 3.39-2 permitted an insurance company to enter into risk-limiting transactions, including put and call options and interest rate futures contracts, subject to the limitations prescribed by that article. Chapter 556,

1 Acts of the 75th Legislature, Regular Session, 1997,
2 also added Subsection (u), revised as this section and
3 Sections 425.110(h) and 425.125-425.132, to Section 4,
4 V.T.I.C. Article 3.33. Because Section 4(u), V.T.I.C.
5 Article 3.33, effectively supersedes V.T.I.C. Article
6 3.39-2, the revised law omits Section 4(u)(11) as
7 unnecessary. The omitted law reads:

8 (11) Article 3.39-2 shall not
9 apply to transactions authorized by this
10 Subsection (u).

11 Revised Law

12 Sec. 425.125. RISK CONTROL TRANSACTIONS: DEFINITIONS. In
13 Sections 425.124-425.132:

14 (1) "Acceptable collateral" means cash, cash
15 equivalents, letters of credit, and direct obligations, or
16 securities that are fully guaranteed as to principal and interest
17 by the United States government.

18 (2) "Business entity" includes a sole proprietorship,
19 corporation, limited liability company, association, partnership,
20 joint stock company, joint venture, mutual fund, bank, trust, joint
21 tenancy, or other similar form of business organization, regardless
22 of whether organized for profit.

23 (3) "Cap" means an agreement obligating the seller to
24 make payments to the buyer, with each payment based on the amount by
25 which a reference price or level or the performance or value of one
26 or more underlying interests exceeds a predetermined number that is
27 sometimes called the strike rate or strike price.

28 (4) "Cash equivalent" means an investment or security
29 that is short-term, highly rated, highly liquid, and readily
30 marketable. The term includes a money market fund described by
31 Section 425.123. For purposes of this subdivision, an investment
32 or security is:

33 (A) short-term if it has a remaining term to
34 maturity of one year or less; and

35 (B) highly rated if it has:

1 (i) a rating of "P-1" by Moody's Investors
2 Service, Inc.;

3 (ii) a rating of "A-1" by the Standard and
4 Poor's Division of the McGraw Hill Companies, Inc.; or

5 (iii) an equivalent rating by a nationally
6 recognized statistical rating organization recognized by the
7 securities valuation office.

8 (5) "Collar" means an agreement to receive payments as
9 the buyer of an option, cap, or floor and to make payments as the
10 seller of a different option, cap, or floor.

11 (6)(A) "Counterparty exposure amount" means:

12 (i) for an over-the-counter derivative
13 instrument not entered into under a written master agreement that
14 provides for netting of payments owed by the respective parties,
15 the market value of the over-the-counter derivative instrument, if
16 the liquidation of the derivative instrument would result in a
17 final cash payment to the insurer, or zero, if the liquidation of
18 the derivative instrument would not result in a final cash payment
19 to the insurance company; or

20 (ii) for an over-the-counter derivative
21 instrument entered into under a written master agreement that
22 provides for netting of payments owed by the respective parties,
23 and for which the counterparty's domiciliary jurisdiction is within
24 the United States or a jurisdiction outside the United States that
25 is listed in the Purposes and Procedures Manual of the securities
26 valuation office as eligible for netting, the greater of zero or the
27 net sum payable to the company in connection with all derivative
28 instruments subject to the written master agreement on the
29 liquidation of the instruments in the event of the counterparty's
30 default under the master agreement, if there is no condition
31 precedent to the counterparty's obligation to make the payment and
32 if there is no setoff of amounts payable under another instrument or
33 agreement.

34 (B) For purposes of this subdivision, market

1 value or the net sum payable, as applicable, must be determined at
2 the end of the most recent quarter of the insurance company's fiscal
3 year and must be reduced by the market value of acceptable
4 collateral held by the company or a custodian on the company's
5 behalf.

6 (7) "Derivative instrument":

7 (A) means an agreement, option, or instrument, or
8 a series or combinations of agreements, options, or instruments:

9 (i) to make or take delivery of, or assume
10 or relinquish, a specified amount of one or more underlying
11 interests, or to make a cash settlement instead of making or taking
12 delivery of, or assuming or relinquishing, a specified amount of an
13 underlying instrument; or

14 (ii) that has a price, performance, value,
15 or cash flow based primarily on the actual or expected price, yield,
16 level, performance, value, or cash flow of one or more underlying
17 interests;

18 (B) includes an option, a warrant not otherwise
19 permitted to be held by the insurance company under this
20 subchapter, a cap, a floor, a collar, a swap, a swaption, a forward,
21 a future, any other substantially similar agreement, option, or
22 instrument, and a series or combination of those agreements,
23 options, or instruments; and

24 (C) does not include a collateralized mortgage
25 obligation, another asset-backed security, a principal-protected
26 structured security, a floating rate security, an instrument that a
27 company would otherwise be authorized to invest in or receive under
28 a provision of this subchapter other than Sections 425.124-425.132,
29 or a debt obligation of the company.

30 (8) "Derivative transaction" means a transaction
31 involving the use of one or more derivative instruments. The term
32 does not include a dollar roll transaction, repurchase transaction,
33 reverse repurchase transaction, or securities lending transaction.

34 (9) "Floor" means an agreement obligating the seller

1 to make payments to the buyer, each of which is based on the amount
2 by which a predetermined number that is sometimes called the floor
3 rate or floor price exceeds a reference price, level, performance,
4 or value of one or more underlying interests.

5 (10) "Forward" means an agreement to make or take
6 delivery in the future of one or more underlying interests, or to
7 effect a cash settlement, based on the actual or expected price,
8 level, performance, or value of those interests. The term does not
9 include a future, a spot transaction effected within a customary
10 settlement period, a when-issued purchase, or another similar cash
11 market transaction.

12 (11) "Future" means an agreement traded on a futures
13 exchange to make or take delivery of one or more underlying
14 interests, or to effect a cash settlement based on the actual or
15 expected price, level, performance, or value of those interests.

16 (12) "Futures exchange" means a foreign or domestic
17 exchange, contract market, or board of trade on which trading in
18 futures is conducted and that, in the United States, is authorized
19 to conduct that trading by the Commodity Futures Trading Commission
20 or a successor to that agency.

21 (13) "Hedging transaction" means a derivative
22 transaction entered into and maintained to manage, with respect to
23 an asset, liability, or portfolio of assets or liabilities, that an
24 insurance company has acquired or incurred or anticipates acquiring
25 or incurring:

26 (A) the risk of a change in value, yield, price,
27 cash flow, or quantity; or

28 (B) the currency exchange rate risk.

29 (14) "Income generation transaction" means a
30 derivative transaction entered into to generate income. The term
31 does not include a hedging transaction or a replication
32 transaction.

33 (15) "Market value" means the price for a security or
34 derivative instrument obtained from a generally recognized source,

1 the most recent quotation from a generally recognized source, or if
2 a generally recognized source does not exist, the price determined
3 under the terms of the instrument or in good faith by the insurance
4 company, as can be reasonably demonstrated to the commissioner on
5 request, plus the amount of accrued but unpaid income on the
6 security or instrument to the extent that amount is not included in
7 the price as of the date the security or instrument is valued.

8 (16) "Option" means an agreement giving the buyer the
9 right to buy or receive, referred to as a "call option," to sell or
10 deliver, referred to as a "put option," to enter into, extend, or
11 terminate, or to effect a cash settlement based on the actual or
12 expected price, spread, level, performance, or value of, one or
13 more underlying interests.

14 (17) "Over-the-counter derivative instrument" means a
15 derivative instrument entered into with a business entity in a
16 manner other than through a securities exchange or futures exchange
17 or cleared through a qualified clearinghouse.

18 (18) "Potential exposure" means:

19 (A) as to a futures position, the amount of
20 initial margin required for that position; or

21 (B) as to a swap, collar, or forward, one-half of
22 one percent multiplied by the notional amount multiplied by the
23 square root of the remaining years to maturity.

24 (19) "Qualified clearinghouse" means a clearinghouse
25 that:

26 (A) is subject to the rules of a securities
27 exchange or a futures exchange; and

28 (B) provides clearing services, including acting
29 as a counterparty to each of the parties to a transaction in a
30 manner that eliminates the parties' credit risk to each other.

31 (20) "Replication transaction" means a derivative
32 transaction or a combination of derivative transactions effected
33 separately or in conjunction with cash market investments included
34 in the insurance company's investment portfolio to replicate the

1 risks and returns of another authorized transaction, investment, or
2 instrument, or to operate as a substitute for cash market
3 transactions. The term does not include a hedging transaction.

4 (21) "Securities exchange" means:

5 (A) an exchange registered as a national
6 securities exchange or a securities market registered under the
7 Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.), as
8 amended;

9 (B) the Private Offerings, Resales and Trading
10 through Automated Linkages system; or

11 (C) a designated offshore securities market as
12 defined by 17 C.F.R. Section 230.902, as amended.

13 (22) "Swap" means an agreement to exchange or to net
14 payments at one or more times based on the actual or expected price,
15 yield, level, performance, or value of one or more underlying
16 interests.

17 (23) "Swaption" means an option to purchase or sell a
18 swap at a given price and time or at a series of prices and times.
19 The term does not include a swap with an embedded option.

20 (24) "Underlying interest" means an asset, liability,
21 or other interest underlying a derivative instrument or a
22 combination of those assets, liabilities, or other interests. The
23 term includes a security, currency, rate, index, commodity, or
24 derivative instrument.

25 (25) "Warrant" means an instrument that gives the
26 holder the right to purchase or sell the underlying interest at a
27 given price and time or at a series of prices and times outlined in
28 the warrant agreement. (V.T.I.C. Art. 3.33, Sec. 4(u)(1).)

29 Source Law

30 (1) For the purposes of this Subsection
31 (u), the following definitions shall apply:

32 (A) "Acceptable collateral" means
33 cash, cash equivalents, letters or credit and direct
34 obligations, or securities that are fully guaranteed
35 as to principal and interest by, the government of the
36 United States.

37 (B) "Business entity" includes a sole
38 proprietorship, corporation, limited liability

1 company, association, partnership, joint stock
2 company, joint venture, mutual fund, bank, trust,
3 joint tenancy or other similar form of business
4 organization, whether organized for-profit or
5 not-for-profit.

6 (C) "Cap" means an agreement
7 obligating the seller to make payments to the buyer
8 with each payment based on the amount by which a
9 reference price or level or the performance or value of
10 one or more underlying interests exceeds a
11 predetermined number, sometimes called the strike rate
12 or strike price.

13 (D) "Cash equivalents" means
14 short-term, highly rated, highly liquid and readily
15 marketable investments or securities, which includes
16 money market funds as defined in Subsection (s). For
17 purposes of this definition:

18 (i) "short-term" means
19 investments with a remaining term to maturity of one
20 year or less; and

21 (ii) "highly rated" means an
22 investment rated "P-1" by Moody's Investors Service,
23 Inc., or "A-1" by the Standard and Poor's Division of
24 the McGraw Hill Companies, Inc., or its equivalent
25 rating by a nationally recognized statistical rating
26 organization recognized by the Securities Valuation
27 Office.

28 (E) "Collar" means an agreement to
29 receive payments as the buyer of an option, cap or
30 floor and to make payments as the seller of a different
31 option, cap or floor.

32 (F) "Counterparty exposure amount"
33 means:

34 (i) for an over-the-counter
35 derivative instrument not entered into pursuant to a
36 written master agreement which provides for netting of
37 payments owed by the respective parties:

38 (a) the market value of
39 the over-the-counter derivative instrument if the
40 liquidation of the derivative instrument would result
41 in a final cash payment to the insurer; or

42 (b) zero if the
43 liquidation of the derivative instrument would not
44 result in a final cash payment to the insurer;

45 (ii) for over-the-counter
46 derivative instruments entered into pursuant to a
47 written master agreement which provides for netting of
48 payments owed by the respective parties, and the
49 domiciliary jurisdiction of the counterparty is either
50 within the United States, or if not within the United
51 States, is within a foreign (not United States)
52 jurisdiction listed in the Purposes and Procedures
53 Manual of the Securities Valuation Office as eligible
54 for netting, the greater of zero or the net sum payable
55 to the insurer in connection with all derivative
56 instruments subject to the written master agreement
57 upon their liquidation in the event of default by the
58 counterparty pursuant to the master agreement
59 (assuming no conditions precedent to the obligations
60 of the counterparty to make such a payment and assuming
61 no setoff of amounts payable pursuant to any other
62 instrument or agreement);

63 (iii) for purposes of this
64 definition, market value or the net sum payable, as the
65 case may be, shall be determined at the end of the most
66 recent quarter of the insurer's fiscal year and shall
67 be reduced by the market value of acceptable
68 collateral held by the insurer or a custodian on the

insurer's behalf.

(G) "Derivative instrument" means any agreement, option or instrument, or any series or combinations thereof:

(i) to make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof; or

(ii) that have a price, performance, value or cash flow based primarily upon the actual or expected price, yield, level, performance, value or cash flow of one or more underlying interests.

Derivative instruments include options, warrants not otherwise permitted to be held by the insurer under this article, caps, floors, collars, swaps, swaptions, forwards, futures and any other agreements, options or instruments substantially similar thereto, or any series or combinations thereof.

Derivative instruments do not include collateralized mortgage obligations, other asset-backed securities, principal-protected structured securities, floating rate securities, or instruments which an insurer is otherwise permitted to invest in or receive under this article other than under this subsection, and any debt obligations of the insurer.

(H) "Derivative transaction" means a transaction involving the use of one or more derivative instruments. Dollar roll transactions, repurchase transactions, reverse repurchase transactions and securities lending transactions shall not be included as derivative transactions for purposes of this subsection.

(I) "Floor" means an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor rate or price, exceeds a reference price, level, performance or value of one or more underlying interests.

(J) "Forward" means an agreement (other than a future) to make or take delivery in the future of one or more underlying interests, or effect a cash settlement, based on the actual or expected price, level, performance or value of such underlying interests, but shall not mean or include spot transactions effected within customary settlement periods, when-issued purchases or other similar cash market transactions.

(K) "Future" means an agreement, traded on a futures exchange, to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of, one or more underlying interests.

(L) "Futures exchange" means a foreign or domestic exchange, contract market or board of trade on which trading in futures is conducted and, in the United States, which has been authorized for such trading by the Commodities Futures Trading Commission or any successor thereof.

(M) "Hedging transaction" means a derivative transaction which is entered into and maintained to manage:

(i) the risk of a change in the value, yield, price, cash flow or quantity of assets or liabilities (or a portfolio of assets and/or

1 liabilities) which the insurer has acquired or
2 incurred or anticipates acquiring or incurring; or

3 (ii) the currency exchange rate
4 risk related to assets or liabilities (or a portfolio
5 of assets and/or liabilities) which an insurer has
6 acquired or incurred or anticipates acquiring or
7 incurring.

8 (N) "Income generation transaction"
9 means a derivative transaction which is entered into
10 to generate income. A derivative transaction which is
11 entered into as a hedging transaction or a replication
12 transaction shall not be considered an income
13 generation transaction.

14 (O) "Market value" means the price
15 for the security or derivative instrument obtained
16 from a generally recognized source or the most recent
17 quotation from such a source or, to the extent no
18 generally recognized source exists, the price for the
19 security or derivative instrument as determined
20 pursuant to the terms of the instrument or in good
21 faith by the insurer as can be reasonably demonstrated
22 to the Commissioner upon request, plus accrued but
23 unpaid income thereon to the extent not included in the
24 price as of the date.

25 (P) "Option" means an agreement
26 giving the buyer the right to buy or receive (a "call
27 option"), sell or deliver (a "put option"), enter
28 into, extend or terminate or effect a cash settlement
29 based on the actual or expected price, spread, level,
30 performance or value of one or more underlying
31 interests.

32 (Q) "Over-the-counter derivative
33 instrument" means a derivative instrument entered into
34 with a business entity, other than through a
35 securities exchange, futures exchange, or cleared
36 through a qualified clearinghouse.

37 (R) "Potential exposure" means:

38 (i) as to a futures position,
39 the amount of initial margin required for that
40 position; or

41 (ii) as to swaps, collars and
42 forwards, one-half percent times the notional amount
43 times the square root of the remaining years to
44 maturity.

45 (S) "Qualified clearinghouse" means
46 a clearinghouse subject to the rules of a securities
47 exchange or a futures exchange, which provides
48 clearing services, including acting as a counterparty
49 to each of the parties to a transaction such that the
50 parties no longer have credit risk to each other.

51 (T) "Replication transaction" means
52 a derivative transaction or combination of derivative
53 transactions effected either separately or in
54 conjunction with cash market investments included in
55 the insurer's investment portfolio in order to
56 replicate the risks and returns of another authorized
57 transaction, investment or instrument and/or operate
58 as a substitute for cash market transactions. A
59 derivative transaction entered into by the insurer as
60 a hedging transaction shall not be considered a
61 replication transaction.

62 (U) "Securities exchange" means:

63 (i) an exchange registered as a
64 national securities exchange or a securities market
65 registered under the Securities Exchange Act of 1934
66 (15 U.S.C. Section 78 et seq.), as amended;

67 (ii) Private Offerings Resales
68 and Trading through Automated Linkages (PORTAL); or

1 (iii) a designated offshore
2 securities market as defined in Securities Exchange
3 Commission Regulation S, 17 C.F.R. Part 230, as
4 amended.

5 (V) "Swap" means an agreement to
6 exchange or to net payments at one or more times based
7 on the actual or expected price, yield, level,
8 performance or value of one or more underlying
9 interests.

10 (W) "Swaption" means an option to
11 purchase or sell a swap at a given price and time or at
12 a series of prices and times. A swaption does not mean
13 a swap with an embedded option.

14 (X) "Underlying interest" means the
15 assets, liabilities or other interests, or a
16 combination thereof, underlying a derivative
17 instrument, such as any one or more securities,
18 currencies, rates, indices, commodities or
19 derivatives instruments.

20 (Y) "Warrant" means an instrument
21 that gives the holder the right to purchase or sell the
22 underlying interest at a given price and time or at a
23 series of prices and times outlined in the warrant
24 agreement.

25 Revisor's Note

26 (1) Section 4(u)(1)(A), V.T.I.C. Article 3.33,
27 in part defines "acceptable collateral" as "cash, cash
28 equivalents, letters or credit and direct
29 obligations." From the context, it is clear that
30 "letters or credit" is a typographical error, and that
31 the statute was intended to say "letters of credit."
32 The revised law is drafted accordingly.

33 (2) Section 4(u)(1)(U)(i), V.T.I.C. Article
34 3.33, refers to the Securities Exchange Act of 1934 (15
35 U.S.C. Section 78 et seq.), as amended. The revised
36 law corrects the citation for that act to reflect that
37 the act begins at 15 U.S.C. Section 78a.

38 (3) Section 4(u)(1)(U)(iii), V.T.I.C. Article
39 3.33, refers to a designated offshore securities
40 market as defined in "Securities Exchange Commission
41 Regulation S, 17 C.F.R. Part 230, as amended." For the
42 reader's convenience, the revised law substitutes for
43 the quoted language a more specific reference to 17
44 C.F.R. Section 230.902, which contains the definition
45 of "designated offshore securities market."

1 Revised Law

2 Sec. 425.126. RISK CONTROL TRANSACTIONS: DERIVATIVE USE
3 PLAN. (a) Before an insurance company enters into a derivative
4 transaction, the company's board of directors must approve a
5 derivative use plan as part of the investment plan required by
6 Section 425.105.

7 (b) The derivative use plan must:

8 (1) describe investment objectives and risk
9 constraints, such as counterparty exposure amounts;

10 (2) define permissible transactions identifying the
11 risks to be hedged or the assets or liabilities being replicated;
12 and

13 (3) require compliance with internal control
14 procedures. (V.T.I.C. Art. 3.33, Sec. 4(u)(2).)

15 Source Law

16 (2) Prior to entering into any derivative
17 transaction, the board of directors of the insurer
18 shall approve a derivative use plan, as part of the
19 investment plan required in Section 3 of this article,
20 that:

21 (A) describes investment objectives
22 and risk constraints, such as counterparty exposure
23 amounts;

24 (B) defines permissible transactions
25 identifying the risks to be hedged, the assets or
26 liabilities being replicated; and

27 (C) requires compliance with
28 internal control procedures.

29 Revised Law

30 Sec. 425.127. RISK CONTROL TRANSACTIONS: INTERNAL CONTROL
31 PROCEDURES. An insurance company that enters into a derivative
32 transaction shall establish written internal control procedures
33 that provide for:

34 (1) a quarterly report to the board of directors that
35 reviews:

36 (A) each derivative transaction entered into,
37 outstanding, or closed out;

38 (B) the results and effectiveness of the
39 derivatives program; and

40 (C) the credit risk exposure to each counterparty

1 for over-the-counter derivative transactions based on the
2 counterparty exposure amount;

3 (2) a system for determining whether hedging or
4 replication strategies used have been effective;

5 (3) a system of regular reports, at least monthly, to
6 management that include:

7 (A) a description of each derivative transaction
8 entered into, outstanding, or closed out during the period since
9 the last report;

10 (B) the purpose of each outstanding derivative
11 transaction;

12 (C) a performance review of the derivative
13 instrument program; and

14 (D) the counterparty exposure amount for each
15 over-the-counter derivative transaction;

16 (4) a written authorization that identifies the
17 responsibilities and limitations of authority of each person
18 authorized to effect and maintain derivative transactions; and

19 (5) appropriate documentation for each transaction,
20 including:

21 (A) the purpose of the transaction;

22 (B) the assets or liabilities to which the
23 transaction relates;

24 (C) the specific derivative instrument used in
25 the transaction;

26 (D) for an over-the-counter derivative
27 transaction, the name of the counterparty and the counterparty
28 exposure amount; and

29 (E) for an exchange-traded derivative
30 instrument, the name of the exchange and the name of the firm that
31 handled the transaction. (V.T.I.C. Art. 3.33, Sec. 4(u)(3).)

32 Source Law

33 (3) The insurer shall establish written
34 internal control procedures that provide for:

35 (A) a quarterly report to the board

1 of directors that reviews:
2 (i) all derivative transactions
3 entered into, outstanding or closed out;
4 (ii) the results and
5 effectiveness of the derivatives program; and
6 (iii) the credit risk exposure
7 to each counterparty for over-the-counter derivative
8 transactions based upon the counterparty exposure
9 amount;
10 (B) a system for determining whether
11 hedging or replication strategies utilized have been
12 effective;
13 (C) a system of regular reports (not
14 less frequently than monthly) to management including:
15 (i) a description of all the
16 derivative transactions entered into, outstanding or
17 closed out during the period since the last report;
18 (ii) the purpose of each
19 outstanding derivative transaction;
20 (iii) a performance review of
21 the derivative instrument program; and
22 (iv) the counterparty exposure
23 amount for over-the-counter derivative transactions;
24 (D) written authorizations that
25 identify the responsibilities and limitations of
26 authority of persons authorized to effect and maintain
27 derivative transactions;
28 (E) documentation appropriate for
29 each transaction including:
30 (i) the purpose of the
31 transaction;
32 (ii) the assets or liabilities
33 to which the transaction relates;
34 (iii) the specific derivative
35 instrument used in the transaction;
36 (iv) for over-the-counter
37 derivative instrument transactions, the name of the
38 counterparty and the counterparty exposure amount; and
39 (v) for exchange-traded
40 derivative instruments, the name of the exchange and
41 the name of the firm that handled the transaction.

42 Revisor's Note

43 Section 4(u)(3)(E)(iv), V.T.I.C. Article 3.33,
44 refers to "over-the-counter derivative instrument
45 transactions." For consistent use of the terminology,
46 the revised law substitutes "over-the-counter
47 derivative transaction" for "over-the-counter
48 derivative instrument transactions."

49 Revised Law

50 Sec. 425.128. RISK CONTROL TRANSACTIONS: OVERSIGHT BY
51 COMMISSIONER. (a) An insurance company must be able to demonstrate
52 to the commissioner on request the intended hedging characteristics
53 and continuing effectiveness of a derivative transaction or
54 combination of transactions through:

- (1) cash flow testing;
- (2) duration analysis; or
- (3) other appropriate analysis.

(b) Ten days before entering into an initial hedging transaction, an insurance company shall notify the commissioner in writing that:

(1) the company's board of directors has adopted an investment plan that authorizes hedging transactions; and

(2) each hedging transaction will comply with Sections 425.124-425.132.

(c) After providing the notice under Subsection (b), the insurance company may enter into a hedging transaction under Section 425.124 if as a result of and after making the transaction:

(1) the aggregate statement value of all outstanding options other than collars, and of all caps, floors, swaptions, and warrants under Sections 425.124-425.132 not attached to another financial instrument purchased by the company does not exceed 7.5 percent of the company's assets;

(2) the aggregate statement value of all outstanding options other than collars, and of all caps, floors, swaptions, and warrants written by the company under Sections 425.124-425.132 does not exceed three percent of the company's assets; and

(3) the aggregate potential exposure of all outstanding collars, swaps, forwards, and futures entered into or acquired by the company under Sections 425.124-425.132 does not exceed 6.5 percent of the company's assets.

(d) If the hedging transaction does not comply with Sections 425.124-425.132, or if continuing the transaction may create a hazardous financial condition for the insurance company that affects the company's policyholders or creditors or the public, the commissioner may, after notice and an opportunity for a hearing, order the company to take action reasonably necessary to:

- (1) remedy a hazardous financial condition; or
- (2) prevent an impending hazardous financial

1 condition from occurring. (V.T.I.C. Art. 3.33, Secs. 4(u)(4),
2 4(u)(6)(a) (part), (b).)

3 Source Law

4 (4) An insurer shall be able to
5 demonstrate to the commissioner, upon request, the
6 intended hedging characteristics and ongoing
7 effectiveness of the derivative transaction or
8 combination of transactions through cash flow testing,
9 duration analysis or other appropriate analysis.

10 (6)(a) Ten days prior to entering into the
11 initial hedging transaction, the insurer shall notify
12 the commissioner in writing that: (i) the insurer's
13 board of directors has adopted an investment plan
14 which authorizes hedging transactions, and (ii) all
15 hedging transactions will comply with this Subsection
16 (u). . . . Thereafter, an insurer may enter into
17 hedging transactions under this subsection, if as a
18 result of and after giving effect to each such
19 transaction:

20 (A) the aggregate statement value of
21 all outstanding options (other than collars), caps,
22 floors, swaptions and warrants (not attached to
23 another financial instrument purchased by the insurer)
24 pursuant to this subsection does not exceed 7.5
25 percent of its assets;

26 (B) the aggregate statement value of
27 all outstanding options (other than collars),
28 swaptions, warrants, caps and floors written by the
29 insurer pursuant to this subsection does not exceed
30 three percent of its assets; and

31 (C) the aggregate potential exposure
32 of all outstanding collars, swaps, forwards and
33 futures entered into or acquired by the insurer
34 pursuant to this subsection does not exceed 6.5
35 percent of its assets.

36 (b) Whenever the derivative transactions
37 entered into under this Subsection (u)(6), are not in
38 compliance with this Subsection (u) or, if continued,
39 may now or subsequently, create a hazardous financial
40 condition to the insurer which affects its
41 policyholders, creditors or the general public, the
42 commissioner may, after notice and an opportunity for
43 a hearing, order the insurer to take such action as may
44 be reasonably necessary to (i) rectify a hazardous
45 financial condition, or (ii) to prevent an impending
46 hazardous financial condition from occurring.

47 Revisor's Note

48 (1) Section 4(u)(6)(a), V.T.I.C. Article 3.33,
49 requires insurance companies that are "already"
50 entering into hedging transactions to notify the
51 commissioner of insurance "within 30 days of the
52 effective date of this Subsection (u)." Subsection
53 (u) was added to Section 4, V.T.I.C. Article 3.33, by
54 Chapter 556, Acts of the 75th Legislature, Regular

1 Session, 1997, and took effect September 1, 1997. The
2 revised law omits the requirement for companies
3 "already" engaged in hedging transactions as executed.

4 The omitted law reads:

5 (a) . . . Insurers already engaged
6 in hedging transactions shall notify the
7 commissioner as set forth in the preceding
8 sentence within 30 days of the effective
9 date of this Subsection (u). . . .

10 (2) Section 4(u)(6)(b), V.T.I.C. Article 3.33,
11 refers to hedging transactions that "may now or
12 subsequently, create a hazardous financial
13 condition." The revised law omits "now or
14 subsequently" as unnecessary. A reference to a
15 hedging transaction that "may create" a hazardous
16 financial condition is not limited to a hazardous
17 financial condition at the present time.

18 Revised Law

19 Sec. 425.129. RISK CONTROL TRANSACTIONS: LIMITATIONS ON
20 INCOME GENERATION TRANSACTIONS. An insurance company may enter
21 into an income generation transaction only if:

22 (1) as a result of and after making the transaction,
23 the sum of the following amounts does not exceed 10 percent of the
24 company's assets:

25 (A) the aggregate statement value of admitted
26 assets that at the time of the transaction are subject to call or
27 that generate the cash flows for payments the company is required to
28 make under caps and floors sold by the company and that at the time
29 of the transaction are outstanding under Sections 425.124-425.132;

30 (B) the statement value of admitted assets
31 underlying derivative instruments that at the time of the
32 transaction are subject to calls sold by the company and
33 outstanding under those sections; and

34 (C) the purchase price of assets subject to puts
35 that at the time of the transaction are outstanding under those
36 sections; and

1 (2) the transaction is one of the following types, is
2 covered in the manner specified by this subdivision, and meets the
3 other requirements of this subdivision:

4 (A) a sale of a call option on assets, if during
5 the entire period the option is outstanding, the company holds, or
6 has a currently exercisable right to acquire, the underlying
7 assets;

8 (B) a sale of a put option on assets, if:

9 (i) during the entire period the option is
10 outstanding, the company holds sufficient cash, cash equivalents,
11 or interests in a short-term investment pool to purchase the
12 underlying assets on exercise of the option;

13 (ii) the company has the ability to hold the
14 underlying assets in the company's portfolio; and

15 (iii) during the entire period the option
16 is outstanding, when the total market value of all put options sold
17 by the company exceeds two percent of the company's assets, the
18 company sets aside, under a custodial or escrow agreement, cash or
19 cash equivalents that have a market value equal to the amount of the
20 company's put option obligations in excess of two percent of the
21 company's assets;

22 (C) a sale of a call option on a derivative
23 instrument, including a swaption, if:

24 (i) during the entire period the call
25 option is outstanding, the company holds, or has a currently
26 exercisable right to acquire, assets generating the cash flow to
27 make any payment for which the company is liable under the
28 underlying derivative instrument; and

29 (ii) the company has the ability to enter
30 into the underlying derivative transaction for the company's
31 portfolio; and

32 (D) a sale of a cap or floor, if during the entire
33 period the cap or floor is outstanding, the company holds, or has a
34 currently exercisable right to acquire, assets generating the cash

1 flow to make any payment for which the company is liable under the
2 cap or floor. (V.T.I.C. Art. 3.33, Sec. 4(u)(7).)

3 Source Law

4 (7) An insurer may only enter into an
5 income generation transaction if:

6 (A) as a result of and after giving
7 effect to the transaction, the aggregate statement
8 value of admitted assets that are then subject to call
9 or that generate the cash flows for payments required
10 to be made by the insurer under caps and floors sold by
11 the insurer and then outstanding under this
12 subsection, plus the statement value of admitted
13 assets underlying derivative instruments then subject
14 to calls sold by the insurer and outstanding under this
15 subsection, plus the purchase price of assets subject
16 to puts then outstanding under this subsection does
17 not exceed 10 percent of its assets; and

18 (B) the transaction is one of the
19 following types, is covered in the manner specified
20 below and meets the other requirements specified
21 below:

22 (i) sales of call options on
23 assets, provided that the insurer holds or has a
24 currently exercisable right to acquire the underlying
25 assets during the entire period that the option is
26 outstanding;

27 (ii) sales of put options on
28 assets, provided that the insurer holds sufficient
29 cash, cash equivalents or interests in a short-term
30 investment pool to purchase the underlying assets upon
31 exercise during the entire period that the option is
32 outstanding, and has the ability to hold the
33 underlying assets in its portfolio. If the total
34 market value of all put options sold by the insurer
35 exceeds two percent of the insurer's assets, the
36 insurer shall set aside pursuant to a custodial or
37 escrow agreement cash or cash equivalents having a
38 market value equal to the amount of its put option
39 obligations in excess of two percent of the insurer's
40 assets during the entire period the option is
41 outstanding;

42 (iii) sales of call options on
43 derivative instruments (including swaptions),
44 provided that the insurer holds or has a currently
45 exercisable right to acquire assets generating the
46 cash flow to make any payments for which the insurer is
47 liable pursuant to the underlying derivative
48 instruments during the entire period that the call
49 options are outstanding and has the ability to enter
50 into the underlying derivative transactions for its
51 portfolio; and

52 (iv) sales of caps and floors,
53 provided that the insurer holds or has a currently
54 exercisable right to acquire assets generating the
55 cash flow to make any payments for which the insurer is
56 liable pursuant to the caps and floors during the
57 entire period that the caps and floors are
58 outstanding.

59 Revised Law

60 Sec. 425.130. RISK CONTROL TRANSACTIONS: LIMITATIONS ON
61 REPLICATION TRANSACTIONS. (a) An insurance company may enter into

1 a replication transaction only with the prior written approval of
2 the commissioner, and only if:

3 (1) the company would otherwise be authorized to
4 invest the company's funds under this subchapter in the asset being
5 replicated; and

6 (2) the asset being replicated is subject to all the
7 provisions of this subchapter relating to the making of investments
8 by the company in that type of asset as if the transaction
9 constituted a direct investment by the company in the replicated
10 asset.

11 (b) The commissioner may adopt fair and reasonable rules
12 regarding replication transactions to implement this section.
13 (V.T.I.C. Art. 3.33, Sec. 4(u)(8).)

14 Source Law

15 (8)(a) An insurer may enter into replication
16 transactions only with prior written approval from the
17 Commissioner, provided that:

18 (A) the insurer would otherwise be
19 authorized to invest its funds under this article in
20 the asset being replicated; and

21 (B) the asset being replicated is
22 subject to all the provisions and limitations on the
23 making thereof specified in this article with respect
24 to investments by the insurer as if the transaction
25 constituted a direct investment by the insurer in the
26 replicated asset.

27 (b) The commissioner may adopt such rules and
28 regulations regarding replication transactions as may
29 be fair and reasonable to implement this Subsection
30 (u)(8).

31 Revisor's Note

32 Section 4(u)(8)(a)(B), V.T.I.C. Article 3.33,
33 refers to "provisions and limitations" of that
34 article. The revised law omits the reference to
35 "limitations" because the meaning of that term is
36 included in the meaning of "provisions."

37 Revised Law

38 Sec. 425.131. RISK CONTROL TRANSACTIONS: TRADING
39 REQUIREMENTS. For purposes of Sections 425.124-425.132, each
40 derivative instrument must be:

41 (1) traded on a securities exchange;

1 (2) entered into with, or guaranteed by, a business
2 entity;

3 (3) issued or written by, or entered into with, the
4 issuer of the underlying interest on which the derivative
5 instrument is based; or

6 (4) in the case of futures, traded through a broker
7 that is:

8 (A) registered as a futures commission merchant
9 under the Commodity Exchange Act (7 U.S.C. Section 1 et seq.); or

10 (B) exempt from that registration under 17 C.F.R.
11 Section 30.10, adopted under the Commodity Exchange Act. (V.T.I.C.
12 Art. 3.33, Sec. 4(u)(10).)

13 Source Law

14 (10) Each derivative instrument shall be:
15 (A) traded on a securities exchange;
16 (B) entered into with, or guaranteed
17 by, a business entity;
18 (C) issued or written by or entered
19 into with the issuer of the underlying interest on
20 which the derivative instrument is based; or
21 (D) in the case of futures, traded
22 through a broker which is registered as a futures
23 commission merchant under the Commodity Exchange Act
24 or which has received exemptive relief from such
25 registration under Rule 30.10 promulgated under the
26 Commodity Exchange Act.

27 Revised Law

28 Sec. 425.132. RISK CONTROL TRANSACTIONS: OFFSETTING
29 TRANSACTIONS. (a) Subject to this section, an insurance company
30 may purchase or sell one or more derivative instruments to wholly or
31 partly offset a derivative instrument previously purchased or sold,
32 without regard to the quantitative limitations of Sections
33 425.124-425.131.

34 (b) An offsetting transaction under this section must use
35 the same type of derivative instrument as the derivative instrument
36 being offset. (V.T.I.C. Art. 3.33, Sec. 4(u)(9).)

37 Source Law

38 (9) An insurer may purchase or sell one or
39 more derivative instruments to offset, in whole or in
40 part, any derivative instrument previously purchased
41 or sold, as the case may be, without regard to the
42 quantitative limitations of this subsection, provided

1 that such offsetting transaction utilizes the same
2 type of derivative instrument as the derivative
3 instrument being offset.

4 [Sections 425.133-425.150 reserved for expansion]

5 Revised Law

6 Sec. 425.151. AUTHORIZED INVESTMENTS: FOREIGN COUNTRIES
7 AND UNITED STATES TERRITORIES. (a) In addition to the investments
8 within Canada authorized by this subchapter and subject to this
9 section, an insurance company may make investments within another
10 foreign country or a commonwealth, territory, or possession of the
11 United States.

12 (b) An investment made under this section must be
13 substantially the same type as an investment authorized to be made
14 within the United States or Canada by this subchapter.

15 (c) The sum of the amount of investments made under this
16 section and the amount of similar investments made within the
17 United States and Canada may not exceed any limitation imposed by
18 Sections 425.109-425.121, 425.124-425.132, and 425.152.

19 (d) The aggregate amount of an insurance company's
20 investments under this section may not exceed the sum of:

21 (1) the amount of the company's reserves attributable
22 to insurance business in force in foreign countries, if any, and any
23 additional investments required by a foreign country as a condition
24 of engaging in business in that country; and

25 (2) 20 percent of the company's assets.

26 (e) An insurance company may not invest more than 10 percent
27 of the company's assets in investments denominated in foreign
28 currency that are not hedged under Sections 425.124-425.132.

29 (V.T.I.C. Art. 3.33, Sec. 4(n).)

30 Source Law

31 [Sec. 4. . . . the investments and transactions
32 described in the following subsections . . . are
33 authorized for the insurers subject hereto:]

34 (n) Foreign Countries and United States
35 Territories. In addition to the investments in Canada
36 authorized in other subsections of this section,
37 investments in other foreign countries or in
38 commonwealths, territories, or possessions of the
39 United States; provided:

1 (1) such investments are substantially the
2 same types as those authorized for investment within
3 the United States of America or Canada by other
4 provisions of this section; and

5 (2) such investments when added to the
6 amount of similar investments made within the United
7 States and Canada do not result in the combined total
8 of such investments exceeding the limitations
9 specified in Subsections (a) through (m), (o), (q) and
10 (u) of this section; and

11 (3) such investments may not exceed the
12 sum of:

13 (A) the amount of insurer's reserves
14 attributable to the insurance business in force in
15 foreign countries, if any, and any additional
16 investments required by any foreign country as a
17 condition to doing business therein; and

18 (B) 20 percent of the insurer's
19 assets of which no more than 10 percent of the
20 insurer's assets may be investments denominated in
21 foreign currency that are not hedged pursuant to the
22 provisions of Subsection (u);

23 Revised Law

24 Sec. 425.152. AUTHORIZED INVESTMENTS: INVESTMENTS NOT
25 OTHERWISE SPECIFIED OR PROHIBITED; INVESTMENTS AUTHORIZED BY OTHER
26 LAW. (a) Subject to this section, an insurance company may make an
27 investment that is not otherwise authorized by this subchapter and
28 that is not specifically prohibited by statute, including any
29 portion of an investment that exceeds the limits imposed by
30 Sections 425.109-425.121, 425.124-425.132, and 425.151.

31 (b) If any aggregate or individual investment limitation
32 imposed by Sections 425.109-425.121, 425.124-425.132, and 425.151
33 is exceeded, the excess portion of the investment is considered to
34 be an investment under Subsection (a).

35 (c) The insurance company has the burden of establishing the
36 value of an investment made under Subsection (a).

37 (d) The amount of a single investment made by an insurance
38 company under Subsection (a) may not exceed 10 percent of the
39 company's capital and surplus in excess of the statutory minimum
40 capital and surplus applicable to that company.

41 (e) The aggregate amount of an insurance company's
42 investments under Subsection (a) may not exceed the lesser of:

43 (1) five percent of the company's assets; or

44 (2) the amount of the company's capital and surplus
45 that exceeds the amount of statutory minimum capital and surplus

1 applicable to that company.

2 (f) An insurance company may invest in any investment
3 authorized for an insurance company that is subject to this
4 subchapter by a provision of this code other than this subchapter or
5 by another law of this state. (V.T.I.C. Art. 3.33, Secs. 4(o), (p)
6 (part).)

7 Source Law

8 [Sec. 4. . . . the investments and transactions
9 described in the following subsections . . . are
10 authorized for the insurers subject hereto:]

11 (o) Investments Not Otherwise Specified.
12 Investments which are not otherwise authorized by this
13 article and which are not specifically prohibited by
14 statute, including that portion of any investments
15 which may exceed the limits specified in Subsections
16 (a) through (n), (q) and (u) of this section; provided:

17 (1) if any aggregate or individual
18 specified investment limitation in Subsections (a)
19 through (n), (q) and (u) of this section is exceeded,
20 then the excess portion of such investment shall be an
21 investment under this subsection; and

22 (2) the burden of establishing the value
23 of such investments shall be upon the insurer; and

24 (3) the amount of any one such investment
25 may not exceed 10 percent of the insurer's capital and
26 surplus in excess of the statutory minimum capital and
27 surplus applicable to that insurer; and

28 (4) the aggregate of all investments made
29 under this subsection may not exceed the lesser of
30 either five percent of the insurer's assets or the
31 insurer's capital and surplus in excess of the
32 statutory minimum capital and surplus applicable to
33 that insurer;

34 (p) Other Authorized Investments. Those other
35 investments as follows:

36 . . .
37 (2) any other investment which may be
38 authorized by other provisions of this code or by other
39 laws of this state for the insurers which are subject
40 to this article.

41 Revised Law

42 Sec. 425.153. AUTHORIZED INVESTMENTS: CERTAIN PREVIOUSLY
43 AUTHORIZED INVESTMENTS. (a) An insurance company may continue to
44 hold an investment held by the company on January 1, 1986, that does
45 not conform to the requirements of the investments authorized by
46 Sections 425.109-425.120, 425.151, and 425.152 if the investment
47 was legally authorized at the time the investment was made or
48 acquired or that the company was authorized to hold immediately
49 before January 1, 1986.

1 (b) An investment described by Subsection (a) is considered
2 an authorized investment of the insurance company. A company shall
3 dispose of the investment at the investment's maturity date, if
4 any, or within the time prescribed by the law under which the
5 investment was acquired, if any.

6 (c) This section does not alter the legal or accounting
7 status of an investment described by Subsection (a). (V.T.I.C.
8 Art. 3.33, Sec. 4(p) (part).)

9 Source Law

10 [Sec. 4. . . . the investments and transactions
11 described in the following subsections . . . are
12 authorized for the insurers subject hereto:]

13 [(p) Other Authorized Investments. Those other
14 investments as follows:]

15 (1) any investment held by an insurer on
16 the effective date of this Act, which was legally
17 authorized at the time it was made or acquired or which
18 the insurer was authorized to hold or possess
19 immediately prior to such effective date, but which
20 does not conform to the requirements of the
21 investments authorized in Subsections (a) through (o)
22 of this section, may continue to be held by and
23 considered as an authorized asset or transaction of
24 the insurer; provided the investment or transaction is
25 disposed of at its maturity date, if any, or within the
26 time prescribed by the law under which it was acquired,
27 if any; and provided further, in no event shall the
28 provisions of this subdivision alter the legal or
29 accounting status of such asset; and

30 . . .

31 Revisor's Note

32 (1) Section 4(p)(1), V.T.I.C. Article 3.33,
33 refers to investments "held by an insurer on the
34 effective date of this Act." Section 4(p) was enacted
35 as part of the original enactment of Article 3.33 by
36 Chapter 36, Acts of the 69th Legislature, Regular
37 Session, 1985. The effective date of that act was
38 January 1, 1986. Accordingly, the revised law
39 substitutes "January 1, 1986," for "the effective date
40 of this Act."

41 (2) Section 4(p)(1), V.T.I.C. Article 3.33,
42 refers to an insurance company's authorization to
43 "hold or possess" certain investments. The revised

1 law omits the reference to "possess" as unnecessary
2 because the meaning of that term is included in the
3 meaning of "hold."

4 Revised Law

5 Sec. 425.154. APPLICABILITY OF PERCENTAGE AUTHORIZATIONS
6 AND LIMITATIONS. The percentage authorizations and limitations
7 established by this subchapter apply only at the time an investment
8 is originally acquired or a transaction is entered into and do not
9 apply to the insurance company or the investment or transaction
10 after that time, except as provided by Section 425.155. (V.T.I.C.
11 Art. 3.33, Sec. 4(t) (part).)

12 Source Law

13 (t) The percentage authorizations and
14 limitations set forth in any or all of the provisions
15 of this Article 3.33 shall apply only at the time of
16 the original acquisition of an investment or at the
17 time a transaction is entered into and shall not be
18 applicable to the insurer or such investment or
19 transaction thereafter except as provided in
20 Subsection (w) of this section. . . .

21 Revised Law

22 Sec. 425.155. QUALIFICATION OF INVESTMENTS. (a) The
23 qualification or disqualification of an investment under one
24 section of this subchapter does not prevent the investment from
25 qualifying, wholly or partly, under another section of this
26 subchapter. An investment authorized by more than one section may
27 be held under the authorizing section elected by the insurance
28 company.

29 (b) An investment or transaction qualified under any
30 section of this subchapter at the time the insurance company
31 acquired the investment or entered into the transaction continues
32 to be qualified under that section.

33 (c) An insurance company may elect to transfer at any time
34 the qualification of an investment, wholly or partly, to the
35 authority of any section of this subchapter under which the
36 investment qualifies at the time of the transfer, regardless of
37 whether the investment originally qualified under that section.

1 (d) An investment, once qualified under this subchapter,
2 remains qualified notwithstanding any refinancing, restructuring,
3 or modification of the investment, except that an insurance company
4 may not refinance, restructure, or modify an investment to
5 circumvent the requirements of this subchapter. (V.T.I.C.
6 Art. 3.33, Secs. 4(t) (part), (w).)

7 Source Law

8 (t) . . . In addition, any investment, once
9 qualified under any subsection of this section, shall
10 remain qualified notwithstanding any refinancing,
11 restructuring or modification of such investment
12 provided that, the insurer shall not engage in any such
13 refinancing, restructuring or modification of any
14 investment for the purpose of circumventing the
15 requirements or limitations of this article.

16 (w) Qualification of Investments. The
17 qualification or disqualification of an investment
18 under one subsection of this section does not prevent
19 its qualification in whole or in part under another
20 subsection, and an investment authorized by more than
21 one subsection may be held under whichever authorizing
22 subsection the insurer elects. An investment or
23 transaction qualified under any subsection at the time
24 it was acquired or entered into by the insurer shall
25 continue to be qualified under that subsection. An
26 investment, in whole or in part, may be transferred
27 from time to time, at the election of the insurer, to
28 the authority of any subsection under which it then
29 qualifies, whether or not it originally qualified
30 thereunder.

31 Revisor's Note

32 Section 4(t), V.T.I.C. Article 3.33, refers to
33 the "requirements or limitations" of that article.
34 The revised law omits the reference to "limitations"
35 because, in context, the meaning of that term is
36 included within the meaning of "requirements."

37 Revised Law

38 Sec. 425.156. DISTRIBUTIONS, REINSURANCE, AND MERGER. (a)
39 This subchapter does not prohibit an insurance company from
40 acquiring additional obligations, securities, or other assets
41 received as a dividend or as a distribution of assets.

42 (b) This subchapter does not apply to securities,
43 obligations, or other assets accepted incident to the workout,
44 adjustment, restructuring, or similar realization of any kind of

1 previously authorized investment or transaction if the insurance
2 company's board of directors or a committee appointed by the board
3 of directors determines that acceptance of the securities,
4 obligations, or other assets is in the company's best interests.

5 (c) This subchapter does not apply to assets acquired under
6 a lawful agreement of bulk reinsurance, merger, or consolidation if
7 the assets were legal and authorized investments for the ceding,
8 merged, or consolidated insurance company.

9 (d) An obligation, security, or other asset acquired as
10 permitted by this section is not required to be qualified under any
11 other section of this subchapter. (V.T.I.C. Art. 3.33, Sec. 4(v).)

12 Source Law

13 (v) Distributions, Reinsurance, and Merger. No
14 provision of this article prohibits the acquisition by
15 an insurer of additional obligations, securities, or
16 other assets if received as a dividend or as a
17 distribution of assets, nor does this article apply to
18 securities, obligations, or other assets accepted
19 incident to the workout, adjustment, restructuring or
20 similar realization of any kind of investment or
21 transaction when deemed by the insurer's board of
22 directors or by a committee appointed by the board of
23 directors to be in the best interests of the insurer,
24 if the investment or transaction had previously been
25 authorized, nor does this article apply to assets
26 acquired pursuant to a lawful agreement of bulk
27 reinsurance, merger, or consolidation if such assets
28 constituted legal and authorized investments for the
29 ceding, merged or consolidated company. No
30 obligation, security or other asset acquired as
31 permitted by this subsection need be qualified under
32 any other subsection of this article.

33 Revised Law

34 Sec. 425.157. AGGREGATE DIVERSIFICATION REQUIREMENTS. (a)
35 This section takes precedence over Sections 425.109-425.120,
36 425.122-425.153, and 425.155(a), (b), and (c).

37 (b) An insurance company's investments in all or any types
38 of securities, loans, obligations, or evidences of indebtedness of
39 a single issuer or borrower, including the issuer's or borrower's
40 majority-owned subsidiaries or parent and the majority-owned
41 subsidiaries of the issuer's or borrower's parent, may not, in the
42 aggregate, exceed five percent of the company's assets. This
43 subsection does not apply to:

1 (1) authorized investments that:

2 (A) are direct obligations of, or are guaranteed
3 by the full faith and credit of, the United States, this state, or a
4 political subdivision of this state; or

5 (B) are insured by an agency of the United States
6 or this state; or

7 (2) an investment provided for by Section 425.112 or
8 425.113.

9 (c) Except as otherwise provided by this subsection, an
10 insurance company's aggregate investment in real property under
11 Sections 425.119, 425.120, 425.152, and 425.153 may not exceed
12 33-1/3 percent of the company's assets. If a company acquires real
13 property under Section 425.119(g) and that acquisition causes the
14 company's aggregate real estate investment to exceed the limitation
15 imposed by this subsection, the company shall, on or before the 10th
16 anniversary of the date the real property is acquired, dispose of a
17 sufficient amount of real property to comply with the applicable
18 limitation. A company that does not dispose of excess real property
19 as required by this subsection may not admit as an asset the value
20 of the real property that exceeds the applicable limitation.

21 (d) If an insurance company's real property acquisitions
22 exceed the limitation imposed by Subsection (c), the company may
23 not acquire additional real property under Section 425.119(b) or
24 (c) or 425.120, 425.152, or 425.153 until the company disposes of
25 the excess real property as specified by Subsection (c). (V.T.I.C.
26 Art. 3.33, Sec. 5.)

27 Source Law

28 Sec. 5. The following provisions govern and take
29 precedence over each and every provision of Section 4,
30 except Subsections (q), (t) and (v):

31 (a) Investment in all or any types of
32 securities, loans, obligations, or evidences of
33 indebtedness of a single issuer or borrower (which
34 shall include such issuer's or borrower's
35 majority-owned subsidiaries or parent or the
36 majority-owned subsidiaries of such parent), other
37 than those authorized investments that are either
38 direct obligations of or guaranteed by the full faith
39 and credit of the United States of America, the State
40 of Texas, or a political subdivision thereof or are

1 insured by an agency of the United States of America or
2 the State of Texas shall not in the aggregate exceed
3 five percent of the insurer's assets except for those
4 investments provided for in Subsections (e) and (f) of
5 Section 4 of this article; and

6 (b) The aggregate investment in real
7 property authorized by Subsections (l), (m), (o), and
8 (p) of Section 4 may not exceed 33-1/3 percent of the
9 insurer's assets; provided, in the event an insurer
10 acquires real property under Subdivision (4) of
11 Subsection (l) of Section 4 and such acquisition
12 causes such aggregate real estate to exceed the
13 limitation set forth herein, the insurer shall either
14 dispose of sufficient excess real property to come
15 within such limitations within 10 years of such
16 acquisition or it may not thereafter admit as an asset
17 the value of the real property in excess of such
18 limitation; should an insurer's real property
19 acquisitions exceed such 33-1/3 percent limitation, no
20 additional real property acquisitions under
21 Subdivisions (1) and (2) of Subsection (l), and
22 Subsections (m), (o), and (p) of Section 4 of this
23 article are authorized until such excess is removed.

24 Revised Law

25 Sec. 425.158. WAIVER BY COMMISSIONER OF QUANTITATIVE
26 LIMITATIONS. (a) The commissioner may waive a quantitative
27 limitation on any investment authorized by Sections
28 425.109-425.132 and 425.151-425.156 if:

29 (1) the insurer seeks the waiver before making the
30 investment;

31 (2) a hearing is held to determine whether the waiver
32 should be granted;

33 (3) the applicant seeking the waiver establishes that
34 unreasonable or unnecessary loss or harm will result to the company
35 if the commissioner denies the waiver;

36 (4) the excess investment will not have a material
37 adverse effect on the company; and

38 (5) the size of the investment is reasonable in
39 relation to the company's assets, capital, surplus, and
40 liabilities.

41 (b) The commissioner's waiver must be in writing and may
42 treat the resulting excess investment as a nonadmitted asset.
43 (V.T.I.C. Art. 3.33, Sec. 6.)

44 Source Law

45 Sec. 6. The quantitative limitations respecting
46 any investment authorized in Section 4 may be waived by

1 prior written approval of the commissioner; provided:

2 (a) A hearing is held to determine whether
3 approval should be granted;

4 (b) The applicant seeking prior approval
5 establishes that unreasonable or unnecessary loss or
6 harm to the insurer will result if approval is
7 withheld;

8 (c) The excessive investment will not have
9 a material adverse effect upon the insurer;

10 (d) The size of the investment is
11 reasonable in relation to the insurer's assets,
12 capital, surplus, and liabilities; and

13 (e) The commissioner's prior authorization
14 may treat the resulting excess investment as an asset
15 not admitted.

16 Revisor's Note

17 Section 6, V.T.I.C. Article 3.33, states that the
18 commissioner of insurance may waive the quantitative
19 limitations for certain investments under that article
20 by prior written approval if certain listed conditions
21 are met, including a condition that "[t]he
22 commissioner's prior authorization may treat the
23 resulting excess investment as an asset not admitted."

24 It is clear from the context that the quoted language
25 is not a condition for granting prior written
26 approval, but rather is a separate grant of authority
27 to the commissioner that results from granting that
28 approval. The revised law is drafted accordingly.

29 Revised Law

30 Sec. 425.159. ACCOUNTING PROVISIONS. (a) Each insurance
31 company shall maintain reasonable, adequate, and accurate evidence
32 of the company's ownership of the company's assets and investments.

33 (b) An insurance company shall evidence the company's
34 ownership of governmental or corporate securities as provided by
35 Sections 423.101, 423.102, 423.104(a), 423.105, 423.106, 423.107,
36 and 423.108.

37 (c) An insurance company shall hold investments, other than
38 investments made as a participation in a partnership or joint
39 venture, only in the company's own name or as otherwise provided by
40 Chapter 423. (V.T.I.C. Art. 3.33, Secs. 7(b), (c), (d).)

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(b) Each insurer shall maintain reasonable, adequate, and accurate evidence of its ownership of its assets and investments.

(c) The ownership of governmental or corporate securities shall be evidenced as provided for in Article 21.39-B, Section 4, of this code.

(d) Other than investments made as a participation in a partnership or joint venture, or as otherwise provided in Article 21.39-B of this code, investments shall be held solely in the name of the insurer.

Revisor's Note

Section 7(c), V.T.I.C. Article 3.33, provides that an insurance company's ownership of governmental or corporate securities must "be evidenced as provided for in Article 21.39-B, Section 4, of this code." V.T.I.C. Article 21.39-B was enacted by Chapter 198, Acts of the 64th Legislature, Regular Session, 1975, and originally consisted of only Sections 1-3. Section 4, providing the manner in which a domestic insurance company must evidence the company's ownership of securities, was added by Chapter 267, Acts of the 68th Legislature, Regular Session, 1983. Amendments to Article 21.39-B by Chapter 1436, Acts of the 76th Legislature, Regular Session, 1999, added a new Section 2 and renumbered the subsequent sections, so that Section 4 became Section 5, revised in this code as Sections 423.101, 423.102, 423.104(a), 423.105, 423.106, 423.107, and 423.108. The revised law is drafted accordingly.

Revised Law

Sec. 425.160. INVESTMENTS OF CEDING INSURERS. (a) Subject to this section, if a domestic insurance company assumes and reinsures the business of and takes over the assets of another domestic insurance company or a foreign company, all assets or investments of the ceding company that were authorized as proper assets or investments for the funds of that company and taken over by the assuming company are considered valid assets or investments

1 of the assuming company under the laws of this state.

2 (b) The commissioner must approve assets or investments
3 described by Subsection (a) and the terms on which those assets or
4 investments are taken over. The commissioner may require the
5 assuming insurance company to reasonably dispose of any of those
6 assets or investments that do not otherwise meet the requirements
7 of this subchapter within a period that will minimize any financial
8 loss or other hardship caused by disposing of the asset or
9 investment. (V.T.I.C. Art. 3.33, Sec. 8.)

10 Source Law

11 Sec. 8. In any case in which a domestic
12 insurance company shall assume and reinsure the
13 business and take over the assets of another insurance
14 company, either domestic or foreign, all assets or
15 investments of such reinsured company that were
16 authorized as proper assets or investments for the
17 funds of such reinsured company, and which are taken
18 over by such domestic company, shall be considered as
19 valid assets or investments of such reinsuring
20 domestic company under the laws of this state;
21 provided such assets or investments are approved by
22 the Commissioner of Insurance of this state, and the
23 same are taken over on terms satisfactory to said
24 commissioner, and upon the condition that the
25 commissioner shall have the power to require the
26 reinsuring domestic company to reasonably dispose of
27 any of such assets or investments as do not otherwise
28 meet the requirements of this article within such time
29 schedule as will minimize any financial loss or other
30 hardship by the disposition of such asset or
31 investment.

32 Revisor's Note

33 Section 8, V.T.I.C. Article 3.33, refers to a
34 "reinsured insurer" and a "reinsuring insurer." For
35 consistent use of terminology in this code, throughout
36 this chapter, the revised law substitutes "ceding
37 company" for "reinsured insurer" and "assuming
38 company" for "reinsuring insurer."

39 Revised Law

40 Sec. 425.161. ACTING AS REAL ESTATE BROKER OR SALESPERSON
41 PROHIBITED. A domestic insurance company or another insurance
42 company specifically made subject to this subchapter may not engage
43 in the business of a broker or salesperson as defined by Chapter
44 1101, Occupations Code, except that the company may hold, improve,

1 maintain, manage, rent, lease, sell, exchange, or convey any of the
2 real property interests owned as investments under Sections
3 425.109-425.132 and 425.151-425.153. (V.T.I.C. Art. 3.33, Sec.
4 10.)

5 Source Law

6 Sec. 10. Domestic companies as defined in Section
7 5 of Article 3.01 of this code and other insurers
8 specifically made subject to the provisions of this
9 article shall not engage in the business of a real
10 estate broker or a real estate salesman as defined by
11 The Real Estate License Act, as amended (Article
12 6573a, Vernon's Texas Civil Statutes), except that
13 such insurers may hold, improve, maintain, manage,
14 rent, lease, sell, exchange, or convey any of the real
15 property interests owned as investments under Section
16 4 of this article.

17 Revisor's Note

18 Section 10, V.T.I.C. Article 3.33, refers to "a
19 real estate broker or a real estate salesman as defined
20 by The Real Estate License Act, as amended (Article
21 6573a, Vernon's Texas Civil Statutes)." That statute
22 was codified in 2001 as Chapter 1101, Occupations
23 Code. Section 1101.002, Occupations Code, defines the
24 terms "broker" and "salesperson" rather than "real
25 estate broker" and "real estate salesman." The
26 revised law is drafted accordingly.

27 Revised Law

28 Sec. 425.162. RULES. The commissioner may adopt rules,
29 minimum standards, or limitations that are fair and reasonable as
30 appropriate to supplement and implement this subchapter. (V.T.I.C.
31 Art. 3.33, Sec. 9.)

32 Source Law

33 Sec. 9. The State Board of Insurance may adopt
34 such rules, regulations, minimum standards, or
35 limitations which are fair and reasonable as may be
36 appropriate for the augmentation and implementation of
37 this article.

38 [Sections 425.163-425.200 reserved for expansion]

1 SUBCHAPTER D. AUTHORIZED INVESTMENTS AND TRANSACTIONS FOR OTHER
2 LIFE, HEALTH, AND ACCIDENT INSURERS

3 Revised Law

4 Sec. 425.201. DEFINITION. In this subchapter,
5 "contingency funds" means an insurer's contingency funds over and
6 above the amount of the insurer's policy reserves. (New.)

7 Revisor's Note

8 The revised law adds the definition of
9 "contingency funds" for drafting convenience and to
10 eliminate frequent, unnecessary repetition of the
11 substance of the definition.

12 Revised Law

13 Sec. 425.202. APPLICABILITY OF SUBCHAPTER. This subchapter
14 applies only to an insurer organized under Chapter 881, 884, 885,
15 886, 887, or 2551, except as specifically provided by those
16 chapters. (V.T.I.C. Art. 3.33, Sec. 1 (part).)

17 Source Law

18 Sec. 1. . . . [Articles 3.39, 3.40, and 3.40-1 of
19 this code shall not be applicable to such companies,
20 but] such articles shall continue to be applicable to
21 insurance companies chartered under Chapters 9, 881,
22 884, 885, 886, and 887 of this code, except as
23 otherwise specifically provided in those
24 chapters. . . .

25 Revisor's Note

26 Section 1, V.T.I.C. Article 3.33, provides that
27 V.T.I.C. Articles 3.39, 3.40, and 3.40-1 "continue to
28 be applicable" to certain specified insurers. When
29 the Insurance Code was originally enacted in 1951,
30 Articles 3.39 and 3.40 governed the investments of
31 life insurance companies and related insurers.
32 Article 3.40-1 was enacted in 1967 by Chapter 660, Acts
33 of the 60th Legislature, Regular Session, to provide
34 additional investment authority for the insurers to
35 which Articles 3.39 and 3.40 applied. Article 3.33,
36 the substance of which is revised as Subchapter C of
37 this chapter, was enacted in 1985 to regulate the

investments of many types of insurance companies, the investments of which were formerly regulated under Articles 3.39, 3.40, and 3.40-1. However, the referenced statement in Section 1, Article 3.33, clarifies that certain insurers, the investments of which were regulated under Articles 3.39, 3.40, and 3.40-1 before the enactment of Article 3.33, continue to be governed by Articles 3.39, 3.40, and 3.40-1 despite the enactment of Article 3.33. The revised law is drafted to preserve that statement of applicability.

Revised Law

Sec. 425.203. LIMITATION ON FUNDS AND OTHER ASSETS. (a) An insurer may not use the insurer's funds to make an investment or loan that is not authorized by this subchapter.

(b) An insurer may not secure, hold, or convey real property except as authorized by this subchapter. (V.T.I.C. Art. 3.39, Parts I (part), II (part); Art. 3.40 (part).)

Source Law

Art. 3.39

PART I. AUTHORIZED INVESTMENTS

A life insurance company organized under the laws of this state [may invest its several funds,] identified as follows, [in the following securities, respectively, and] none other:

. . .

PART II. AUTHORIZED LOANS

A life insurance company organized under the laws of this state [may loan its several funds] identified as follows, [taking as collateral security for the payment of such loans the securities named below, and] none other.

. . .

Art. 3.40. Every such insurance company may secure, hold and convey real property only for the following purposes and in the following manner:

. . .

Revisor's Note

V.T.I.C. Article 3.39 refers to a "life insurance company," and V.T.I.C. Article 3.40 refers to "such insurance company." However, Section 1, V.T.I.C. Article 3.33, which is revised in relevant part as

1 Section 425.202, provides that the law revised as this
2 subchapter applies to a number of entities that are not
3 "life insurance companies" as that term is defined by
4 Section 841.001 of this code. Accordingly, throughout
5 this subchapter, the revised law substitutes "insurer"
6 for "life insurance company" or "insurance company."

7 Revised Law

8 Sec. 425.204. APPROVAL OF INVESTMENTS AND LOANS REQUIRED.

9 (a) An insurer may not make an investment unless the investment has
10 been authorized by the insurer's board of directors or by a
11 committee responsible for supervising investments.

12 (b) An insurer may not make a loan other than a policy loan
13 unless the loan has been authorized by the insurer's board of
14 directors or by a committee responsible for supervising loans.
15 (V.T.I.C. Art. 3.39, Part I, Sec. F, Para. 2; Part II, Sec. A, Para.
16 7.)

17 Source Law

18 [Part I]

19 [F]

20 2. Investments to Be Approved by Board of
21 Directors. No investment shall be made by any such
22 insurance company, unless the same shall first have
23 been authorized by the Board of Directors or by a
24 committee charged with the duty of supervising such
25 investments.

26 [Part II]

27 [A]

28 7. Loans to Be Authorized by Board of Directors.
29 No loan, except policy loans, shall be made by any such
30 insurance company unless the same shall first have
31 been authorized by the Board of Directors or by a
32 committee charged with the duty of supervising such
33 loans.

34 Revised Law

35 Sec. 425.205. AUTHORIZED INVESTMENTS FOR ALL FUNDS:
36 GOVERNMENT BONDS. (a) Subject to this section, an insurer may
37 invest any of the insurer's funds and accumulations in:

38 (1) a bond, treasury bill, note, or certificate of
39 indebtedness of the United States or any other obligation or
40 security fully guaranteed as to principal and interest by the full
41 faith and credit of the United States;

1 (2) a bond of Canada or a province or municipality of
2 Canada;

3 (3) a bond of a state, county, or municipality of the
4 United States;

5 (4) a bond or interest-bearing warrant issued by a
6 county, municipality, school district, or other subdivision that
7 is:

8 (A) organized under the laws of a state of the
9 United States; and

10 (B) authorized to issue the bond or warrant under
11 the constitution and laws of that state;

12 (5) a bond or interest-bearing warrant issued by an
13 educational institution that is:

14 (A) organized under the laws of a state of the
15 United States; and

16 (B) authorized to issue the bond or warrant under
17 the constitution and laws of that state;

18 (6) a bond or warrant, including a revenue or special
19 obligation, of an educational institution located in a state of the
20 United States;

21 (7) a bond or warrant payable from designated revenues
22 of a municipality, county, drainage district, road district, or
23 other civil administration, agency, authority, instrumentality, or
24 subdivision that is:

25 (A) organized under the laws of a state of the
26 United States; and

27 (B) authorized to issue the bond or warrant under
28 the constitution and laws of that state;

29 (8) a paving certificate or other certificate or
30 evidence of indebtedness issued by a municipality in a state of the
31 United States and secured by a first lien on real estate; and

32 (9) a bond issued under the Farm Credit Act of 1971 (12
33 U.S.C. Section 2001 et seq.) that is issued against and secured by
34 promissory notes or obligations, the payment of which is secured by

1 mortgage, deed of trust, or other valid lien on unencumbered real
2 property located in this state.

3 (b) An insurer may invest in a bond or warrant described by
4 Subsection (a)(4) or (5) only if the issuer of the bond or warrant
5 has made legal provision to impose a tax to meet the obligation.

6 (c) An insurer may invest in a bond or warrant described by
7 Subsection (a)(6) only if the special revenue or income to meet the
8 principal and interest payments as they accrue on the obligation
9 has been appropriated, pledged, or otherwise provided by the
10 educational institution.

11 (d) An insurer may invest in a bond or warrant described by
12 Subsection (a)(7) only if special revenue or income to meet the
13 principal and interest payments as they accrue on the obligation
14 has been appropriated, pledged, or otherwise provided by the
15 municipality or other entity. (V.T.I.C. Art. 3.39, Part I (part),
16 Sec. A, Paras. 1, 2, 3, 4, 5, 6, 7, 8, 9.)

17 Source Law

18 Part I. [A life insurance company organized
19 under the laws of this state] may invest its several
20 funds, [identified as follows,] in the following
21 securities, respectively, and

22 A. ANY OF ITS FUNDS AND ACCUMULATIONS

23 1. U.S. Bonds and Obligations Guaranteed by the
24 United States. The bonds, treasury bills, notes and
25 certificates of indebtedness of the United States or
26 any other obligation or security fully guaranteed as
27 to principal and interest by the full faith and credit
28 of the United States.

29 2. Canadian Bonds. The bonds of the Dominion of
30 Canada or any province or city of the Dominion of
31 Canada.

32 3. State, County and City Bonds. The bonds of
33 any state, county, or city of the United States.

34 4. County, City and School District Bonds. Any
35 bonds or interest-bearing warrants issued by authority
36 of law by any county, city, town, school district or
37 other municipality or subdivision, which is now or
38 hereafter may be constituted or organized under the
39 laws of any state in the United States, and which is
40 authorized to issue such bonds and warrants under the
41 Constitution and laws of the state in which it is
42 situated; provided legal provision has been made by a
43 tax to meet said obligations.

44 5. Bonds of Educational Institutions. Any bonds
45 or interest-bearing warrants issued by authority of
46 law by any educational institution which is now or
47 hereafter may be constituted or organized under the
48 laws of any state in the United States, and which is
49 authorized to issue such bonds and warrants under the
50 Constitution and laws of the state in which it is

1 situated; provided legal provision has been made by a
2 tax to meet said obligations.

3 6. Revenue Bonds, etc., of Educational
4 Institutions. The bonds and warrants, including
5 revenue and special obligations, of any educational
6 institution located in any state in the United States
7 when special revenue or income to meet the principal
8 and interest payments as they accrue upon such
9 obligations shall have been appropriated, pledged or
10 otherwise provided by such educational institution.

11 7. Bonds and Warrants of Municipally Owned
12 Systems. The bonds and warrants payable from
13 designated revenues of any city, county, drainage
14 district, road district, town, township, village or
15 other civil administration, agency, authority,
16 instrumentality, or subdivision which is now or
17 hereafter may be constituted or organized under the
18 laws of any state in the United States, and which is
19 authorized to issue such bonds and warrants under the
20 Constitution and laws of the state in which it is
21 situated; provided special revenue or income to meet
22 the principal and interest payments as they accrue
23 upon such obligations shall have been appropriated,
24 pledged or otherwise provided by such municipality.

25 8. Paving Certificates. Any paving
26 certificates or other certificates or evidence of
27 indebtedness issued by any city in any state in the
28 United States and secured by a first lien on real
29 estate.

30 9. Bonds Issued Under Federal Farm Loan Act.
31 Bonds issued under and by virtue of the Federal Farm
32 Loan Act approved July 17, 1916 (12 U.S.C.A. Sec. 641
33 et seq.), when such bonds are issued against and
34 secured by promissory notes, or obligations, the
35 payment of which is secured by mortgage, deed of trust,
36 or other valid lien upon unencumbered real estate
37 situated in this state.

38 Revisor's Note

39 (1) Paragraphs 2, 3, 4, 7, and 8, Section A, Part
40 I, V.T.I.C. Article 3.39, refer to a "city."
41 Paragraphs 4 and 7 refer to a "town" and Paragraph 7
42 refers to a "township" and a "village." The revised
43 law substitutes the term "municipality" for "city,"
44 "town," "township," and "village" for the reason
45 stated in Revisor's Note (6) to Section 425.002.

46 (2) Paragraphs 4, 5, and 7, Section A, Part I,
47 V.T.I.C. Article 3.39, refer to political
48 subdivisions, educational institutions, and other
49 entities that are "now or hereafter may be constituted
50 or organized" under state law. The revised law omits
51 "now or hereafter may be" for the reason stated in
52 Revisor's Note (1) to Section 425.002. The reference

1 to "constituted" is omitted from the revised law
2 because "constituted" is included in the meaning of
3 "organized."

4 (3) Paragraph 9, Section A, Part I, V.T.I.C.
5 Article 3.39, refers to "the Federal Farm Loan Act
6 approved July 17, 1916 (12 U.S.C.A. Sec. 641 et seq.)."
7 That act was repealed by the Farm Credit Act of 1971
8 (Pub. L. No. 92-181), which is codified as 12 U.S.C.
9 Section 2001 et seq. Section 5.26(a) of Pub. L. No.
10 92-181 provided in part that "[a]ll references in
11 other legislation, State or Federal, . . . to the Acts
12 repealed hereby, shall be deemed to refer to
13 comparable provisions of this Act." The revised law is
14 drafted accordingly.

15 Revised Law

16 Sec. 425.206. AUTHORIZED INVESTMENTS FOR ALL FUNDS:
17 CORPORATE BONDS, NOTES, AND DEBENTURES. (a) Subject to Subsection
18 (e), an insurer may invest any of the insurer's funds and
19 accumulations in a first mortgage bond or first lien note on real or
20 personal property of:

21 (1) a solvent corporation that has not defaulted in
22 the payment of any debt during the five years preceding the
23 investment;

24 (2) a solvent corporation that has not been in
25 existence for five consecutive years but whose first mortgage bonds
26 or first lien notes on real or personal property are fully
27 guaranteed by a solvent corporation that has not defaulted in the
28 payment of any debt during the five years preceding the investment;

29 (3) a solvent corporation that has not been in
30 existence for five consecutive years but whose first mortgage bonds
31 or first lien notes on real or personal property are secured by
32 leases or other contracts executed by a solvent corporation that
33 has not defaulted in the payment of any debt during the five years
34 preceding the investment, if the required rentals or other required

1 payments under the leases or other contracts are sufficient in all
2 circumstances to pay interest and principal when due on the bonds or
3 notes; or

4 (4) a solvent corporation that has not been in
5 existence for five consecutive years preceding the investment, if:

6 (A) the corporation has succeeded to the business
7 and assets and has assumed the liabilities of another corporation;
8 and

9 (B) neither the successor corporation or the
10 corporation succeeded has defaulted in the payment of any debt
11 during the five years preceding the investment.

12 (b) Subject to Subsection (e), an insurer may invest any of
13 the insurer's funds and accumulations in a note or debenture of a
14 corporation with a net worth of at least \$5 million if:

15 (1) a prior lien in excess of 10 percent of the net
16 worth of the corporation does not exist against the real or personal
17 property of the corporation at the time the note or debenture is
18 issued; and

19 (2) under the provisions of the indenture providing
20 for the issuance of the note or debenture, a prior lien that exceeds
21 10 percent of the net worth of the corporation cannot be created
22 against the real or personal property of the corporation at the time
23 the note or debenture is issued.

24 (c) Subject to Subsection (e), an insurer may invest any of
25 the insurer's funds and accumulations in a note or debenture of a
26 solvent corporation that has not been in existence for five
27 consecutive years if:

28 (1) a prior lien does not exist against the real or
29 personal property of the corporation at the time the note or
30 debenture is issued;

31 (2) under the provisions of the indenture providing
32 for the issuance of the note or debenture, a prior lien cannot be
33 created against the real or personal property of the corporation at
34 the time the note or debenture is issued; and

1 (3) the note or debenture is:

2 (A) secured by a lease or other contract executed
3 by a solvent corporation that has a net worth of at least \$5 million
4 and has not defaulted in the payment of any debt during the five
5 years preceding the investment, if the required rentals or other
6 required payments under the lease or other contract are sufficient
7 in all circumstances to pay interest and principal when due on the
8 bond or note; or

9 (B) fully guaranteed by a corporation described
10 by Paragraph (A).

11 (d) Subject to Subsection (e), an insurer may invest any of
12 the insurer's funds and accumulations in a bond, bill of exchange,
13 or other commercial note or bill of:

14 (1) a solvent corporation that has not defaulted in
15 the payment of any debt during the five years preceding the
16 investment; or

17 (2) a solvent corporation that has not been in
18 existence for the five years preceding the investment, if:

19 (A) the corporation has succeeded to the business
20 and assets and has assumed the liabilities of another corporation;

21 (B) neither the successor corporation or the
22 corporation succeeded has defaulted in the payment of any debt
23 during the five years preceding the investment;

24 (C) the corporation has a net worth of at least
25 \$50 million; and

26 (D) the corporation does not have long-term
27 indebtedness that exceeds the corporation's net worth, as evidenced
28 by the corporation's latest published financial statements or other
29 financial data available to the public.

30 (e) The amount of an insurer's investments in the bonds,
31 notes, debentures, or other obligations of any one corporation may
32 not exceed five percent of the insurer's admitted assets.

33 (V.T.I.C. Art. 3.39, Part I, Sec. A, Para. 10.)

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1 other commercial notes or bills of any solvent
2 corporation which has not defaulted in the payment of
3 any debt within five (5) years next preceding such
4 investment, or of any solvent corporation which has
5 not been in existence for five (5) consecutive years
6 next preceding such investment, provided such
7 corporation has succeeded to the business and assets
8 and has assumed the liabilities of another
9 corporation, and which corporation and the corporation
10 so succeeded have not defaulted in the payment of any
11 debt within five (5) years next preceding such
12 investment, and which corporation has a net worth of
13 not less than Fifty Million Dollars (\$50,000,000) and
14 has no long-term indebtedness in excess of its net
15 worth, as evidenced by its latest published financial
16 statements or other financial data available to the
17 public; but in no event shall the amount of such
18 investment in the bonds, notes, debentures, or other
19 obligations of any one such corporation exceed five
20 percent (5%) of the admitted assets of the insurance
21 company making such investment.

22 Revised Law

23 Sec. 425.207. AUTHORIZED INVESTMENTS FOR ALL FUNDS: SHARES
24 OF SAVINGS AND LOAN ASSOCIATIONS. (a) Subject to this section, an
25 insurer may invest any of the insurer's funds and accumulations in a
26 share, stock, share or savings account, or investment certificate
27 of a savings and loan association engaged in business in this state
28 that is qualified to participate in insurance issued by the Federal
29 Deposit Insurance Corporation.

30 (b) An insurer's investment in a savings and loan
31 association may not exceed 20 percent of the savings and loan
32 association's total assets. (V.T.I.C. Art. 3.39, Part I, Sec. A,
33 Para. 11.)

34 Source Law

35 [Part I. A life insurance company organized under
36 the laws of this state may invest its several funds,
37 identified as follows, in the following securities,
38 respectively,

39 A. ANY OF ITS FUNDS AND ACCUMULATIONS]

40 11. Shares of Savings and Loan Associations.
41 The shares, stock, share accounts or savings accounts,
42 and investment certificates of Savings and Loan
43 Associations doing business in this state where such
44 association has qualified for participation in
45 insurance issued by the Federal Savings and Loan
46 Insurance Corporation; no such investment shall exceed
47 twenty per cent (20%) of the total assets of any such
48 Individual Savings and Loan Association.

49 Revisor's Note

50 Paragraph 11, Section A, Part I, V.T.I.C. Article

1 3.39, refers to a savings and loan association that
2 "qualified for participation in insurance issued by
3 the Federal Savings and Loan Insurance Corporation."
4 The Financial Institutions Reform, Recovery, and
5 Enforcement Act of 1989 (Pub. L. No. 101-73) abolished
6 the Federal Savings and Loan Insurance Corporation and
7 provided for the insurance of the deposits of savings
8 and loan associations by the Federal Deposit Insurance
9 Corporation. The revised law is drafted accordingly.

10 Revised Law

11 Sec. 425.208. AUTHORIZED INVESTMENTS FOR ALL FUNDS: BANK
12 AND BANK HOLDING COMPANY STOCKS. (a) Subject to this section, an
13 insurer may invest any of the insurer's funds and accumulations in:

14 (1) the stock of a state or national bank that is a
15 member of the Federal Deposit Insurance Corporation; and

16 (2) the stock of a bank holding company as defined by
17 the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841 et
18 seq.), as amended by the Bank Holding Company Act Amendments of 1970
19 (12 U.S.C. Section 1841 et seq. and Section 1971 et seq.).

20 (b) An insurer's investment in the stock of a bank or bank
21 holding company may not exceed:

22 (1) 20 percent of the total outstanding shares of the
23 stock of the bank or bank holding company; or

24 (2) 10 percent of the insurer's admitted assets.
25 (V.T.I.C. Art. 3.39, Part I, Sec. A, Para. 12.)

26 Source Law

27 [Part I. A life insurance company organized under
28 the laws of this state may invest its several funds,
29 identified as follows, in the following securities,
30 respectively,

31 A. ANY OF ITS FUNDS AND ACCUMULATIONS]

32 12. Bank and Bank Holding Company Stocks. The
33 stock of banks, either state or national, that are
34 members of the Federal Deposit Insurance Corporation
35 and the stock of bank holding companies as defined in
36 the Bank Holding Company Act of 1956 (12 U.S.C.A. 1841
37 et seq.) as amended by the Bank Holding Company Act
38 Amendments of 1970 (12 U.S.C.A. 1841 et seq., 1971 et
39 seq.) enacted by the United States Congress; no such
40 investment shall exceed twenty per cent (20%) of the

1 total outstanding shares of the stock of any such bank
2 or bank holding company and in no event shall the
3 amount of investment in any such stock exceed ten per
4 cent (10%) of the admitted assets of the insurance
5 company making such investment.

6 Revised Law

7 Sec. 425.209. AUTHORIZED INVESTMENTS FOR ALL FUNDS:
8 DEBENTURES OF PUBLIC UTILITY CORPORATIONS. (a) Subject to this
9 section, an insurer may invest any of the insurer's funds and
10 accumulations in:

11 (1) a debenture of a solvent public utility
12 corporation that:

13 (A) has not defaulted in the payment of any debt
14 during the five years preceding the investment; and

15 (B) has not failed in any one of the five years
16 preceding the investment to have earned, after taxes, including
17 income taxes, and after deducting proper charges for replacements,
18 depreciation, and obsolescence, an amount applicable to interest on
19 the corporation's outstanding indebtedness equal to at least two
20 times the amount of interest due for that year, or, in the case of
21 issuance of new debentures, the earnings applicable to interest are
22 equal to at least two times the amount of annual interest on the
23 corporation's obligations after giving effect to the new financing;
24 or

25 (2) a debenture of a solvent public utility
26 corporation that has not been in existence for the five years
27 preceding the investment, if:

28 (A) the corporation has succeeded to the business
29 and assets and has assumed the liabilities of another public
30 utility corporation;

31 (B) neither the successor corporation or the
32 corporation succeeded has defaulted in the payment of any debt
33 during the five years preceding the investment; and

34 (C) neither the successor corporation or the
35 corporation succeeded have failed in any one of the five years
36 preceding the investment to have earned, after taxes, including

1 income taxes, and after deducting proper charges for replacements,
2 depreciation, and obsolescence, an amount applicable to interest on
3 the corporation's outstanding indebtedness equal to at least two
4 times the amount of interest due for that year, or in the case of
5 issuance of new debentures, the earnings applicable to interest are
6 equal to at least two times the amount of annual interest on the
7 corporation's obligations after giving effect to the new financing.

8 (b) The amount of an insurer's investment in debentures
9 under this section may not exceed five percent of the insurer's
10 admitted assets. (V.T.I.C. Art. 3.39, Part I, Sec. A, Para. 13.)

11 Source Law

12 [Part I. A life insurance company organized
13 under the laws of this state may invest its several
14 funds, identified as follows, in the following
15 securities, respectively,

16 A. ANY OF ITS FUNDS AND ACCUMULATIONS]

17 13. Debentures of Public Utility Corporations.
18 The debentures of any solvent public utility
19 corporation which has not defaulted in the payment of
20 any debt within five (5) years next preceding such
21 investment, or of any solvent public utility
22 corporation which has not been in existence for five
23 (5) consecutive years next preceding such investment
24 provided such corporation has succeeded to the
25 business and assets and has assumed the liabilities of
26 another such corporation, and which public utility
27 corporation and public utility corporation so
28 succeeded have not defaulted in the payment of any debt
29 within five (5) years next preceding such investment;
30 provided further, that such public utility corporation
31 shall not have failed in any one of the five (5) years
32 next preceding such investment to have earned, after
33 taxes, including income taxes, and after deducting
34 proper charges for replacements, depreciation and
35 obsolescence, a sum applicable to interest on its
36 outstanding indebtedness equal at least to two times
37 the amount of interest due for that year, or where, in
38 the case of issuance of new debentures, such earnings
39 applicable to interest are equal to at least two times
40 the amount of annual interest on such public utility
41 corporation's obligations after giving effect to such
42 new financing; or, in the case of a public utility
43 corporation which has not been in existence for five
44 (5) consecutive years next preceding such investment
45 but has succeeded to the business and assets and has
46 assumed the liabilities of another such corporation,
47 and which public utility corporation and the public
48 utility corporation so succeeded have not failed in
49 any one of the five (5) years next preceding such
50 investment to have earned, after taxes, including
51 income taxes, and after deducting proper charges for
52 replacements, depreciation and obsolescence, a sum
53 applicable to interest on the outstanding indebtedness
54 equal to at least two times the amount of interest due
55 for that year, to where in the case of issuance of new

1 debentures such earnings applicable to interest are
2 equal to at least two times the amount of annual
3 interest on such public utility corporation's
4 obligations after giving effect to such new financing;
5 but in no event shall the amount of such investment in
6 debentures under this Subdivision exceed five per cent
7 (5%) of the admitted assets of the insurance company
8 making the investment.

9 Revised Law

10 Sec. 425.210. AUTHORIZED INVESTMENTS FOR ALL FUNDS:
11 PREFERRED STOCK OF PUBLIC UTILITY CORPORATIONS. (a) Subject to
12 this section, an insurer may invest any of the insurer's funds and
13 accumulations in:

14 (1) preferred stock of a solvent public utility
15 corporation, the bonds and debentures of which are authorized
16 investments for the insurer, and that:

17 (A) has not defaulted in the payment of any debt
18 during the five years preceding the investment; and

19 (B) has not failed in any one of the five years
20 preceding the investment to have earned an amount applicable to the
21 dividends on the preferred stock equal to at least three times the
22 amount of dividends due in that year, or, in the case of issuance of
23 new preferred stock, the earnings applicable to dividends are equal
24 to at least three times the amount of the annual dividend
25 requirements after giving effect to the new financing; or

26 (2) a solvent public utility corporation, the bonds
27 and debentures of which are authorized investments for the insurer,
28 and that has not been in existence for the five years preceding the
29 investment, if:

30 (A) the corporation has succeeded to the business
31 and assets and has assumed the liabilities of another public
32 utility corporation;

33 (B) neither the successor corporation or the
34 corporation succeeded has defaulted in the payment of any debt
35 during the five years preceding the investment; and

36 (C) neither the successor corporation or the
37 corporation succeeded have failed in any one of the five years
38 preceding the investment to have earned an amount applicable to the

1 dividends on the preferred stock equal to at least three times the
2 amount of dividends due in that year, or, in the case of issuance of
3 new preferred stock, the earnings applicable to dividends are equal
4 to at least three times the amount of the annual dividend
5 requirements after giving effect to the new financing.

6 (b) Preferred stock purchased under this section must be of
7 an issue entitled to first claim on the net earnings of the public
8 utility corporation, after deducting the amount necessary to
9 service any outstanding bonds and debentures.

10 (c) The amount of an insurer's investment in preferred stock
11 under this section may not exceed 2-1/2 percent of the insurer's
12 admitted assets. (V.T.I.C. Art. 3.39, Part I, Sec. A, Para. 14.)

13 Source Law

14 [Part I. A life insurance company organized
15 under the laws of this state may invest its several
16 funds, identified as follows, in the following
17 securities, respectively,

18 A. ANY OF ITS FUNDS AND ACCUMULATIONS]

19 14. Preferred Stock of Public Utility
20 Corporations. The preferred stock of any solvent
21 public utility corporation which has not defaulted in
22 the payment of any debt within five (5) years next
23 preceding such investment, or of any solvent public
24 utility corporation which has not been in existence
25 for five (5) consecutive years next preceding such
26 investment provided such corporation has succeeded to
27 the business and assets and has assumed the
28 liabilities of another corporation, and which public
29 utility corporation and the public utility corporation
30 so succeeded have not defaulted in the payment of any
31 debt within five (5) years next preceding such
32 investment; provided further, that such public utility
33 corporation shall not have failed in any one of the
34 five (5) years next preceding such investment to have
35 earned a sum applicable to dividends on such preferred
36 stock equal to at least three times the amount of
37 dividends due in that year, or, in the case of issuance
38 of new preferred stock such earnings applicable to
39 dividends are equal at least to three times the amount
40 of the annual dividend requirements after giving
41 effect to such new financing, and where the bonds and
42 debentures are eligible investments for such insurance
43 company; or, in the case of a public utility
44 corporation which has not been in existence for five
45 (5) consecutive years next preceding such investment,
46 but has succeeded to the business and assets and has
47 assumed the liabilities of another such corporation,
48 and which public utility corporation and the public
49 utility corporation so succeeded have not failed in
50 any one of the five (5) years next preceding such
51 investment to have earned a sum applicable to the
52 dividends on such preferred stock equal to at least
53 three times the amount of dividends due in that year,

1 or, in the case of issuance of new preferred stock,
2 such earnings applicable to dividends are equal at
3 least to three times the amount of the annual dividend
4 requirements after giving effect to such new
5 financing, and where the bonds and debentures are
6 eligible investments for such insurance company;
7 provided that any preferred stock so purchased shall
8 be of an issue which is entitled to first claim upon
9 the net earnings of such public utility corporation
10 after deducting such sum as may be necessary to service
11 any outstanding bonds and debentures, but in no event
12 shall the amount of such investment in preferred stock
13 under this Subdivision exceed two and one-half per
14 cent (2 1/2%) of the admitted assets of the insurance
15 company making the investment.

16 Revised Law

17 Sec. 425.211. AUTHORIZED INVESTMENTS FOR ALL FUNDS: BONDS
18 ISSUED, ASSUMED, OR GUARANTEED IN INTERNATIONAL MARKET. An insurer
19 may invest any of the insurer's funds and accumulations in bonds
20 issued, assumed, or guaranteed by:

- 21 (1) the Inter-American Development Bank;
22 (2) the International Bank for Reconstruction and
23 Development (the World Bank);
24 (3) the African Development Bank;
25 (4) the Asian Development Bank;
26 (5) the International Finance Corporation; and
27 (6) the State of Israel. (V.T.I.C. Art. 3.39, Part I,
28 Sec. A, Para. 15A.)

29 Source Law

30 [Part I. A life insurance company organized
31 under the laws of this state may invest its several
32 funds, identified as follows, in the following
33 securities, respectively,

34 A. ANY OF ITS FUNDS AND ACCUMULATIONS]

35 15A. Other Bonds. A company may also invest its
36 funds and accumulations in:

37 (1) bonds issued, assumed, or guaranteed
38 by the Inter-American Development Bank, the
39 International Bank for Reconstruction and Development
40 (the World Bank), the African Development Bank, the
41 Asian Development Bank, and the International Finance
42 Corporation; and

43 (2) bonds issued, assumed, or guaranteed
44 by the State of Israel.

45 Revised Law

46 Sec. 425.212. AUTHORIZED INVESTMENTS FOR ALL FUNDS:
47 SECURITIES OR INVESTMENTS AUTHORIZED OR DESCRIBED BY SPECIFIC
48 STATUTORY PROVISION. An insurer may invest any of the insurer's

1 funds and accumulations in a security or investment authorized or
2 described by:

- 3 (1) Section 65.013, Finance Code;
- 4 (2) Sections 435.041-435.047, Government Code;
- 5 (3) Subchapter B, Chapter 1505, Government Code;
- 6 (4) Chapter 284, Transportation Code;
- 7 (5) Section 51.039 or 60.104, Water Code;
- 8 (6) Chapter 160, General Laws, Acts of the 43rd
9 Legislature, Regular Session, 1933 (Article 842a, Vernon's Texas
10 Civil Statutes);
- 11 (7) Chapter 230, Acts of the 49th Legislature, Regular
12 Session, 1945 (Article 842a-1, Vernon's Texas Civil Statutes);
- 13 (8) Chapter 110, Acts of the 51st Legislature, Regular
14 Session, 1949 (Article 8280-133, Vernon's Texas Civil Statutes);
- 15 (9) Chapter 340, Acts of the 51st Legislature, Regular
16 Session, 1949 (Article 8280-137, Vernon's Texas Civil Statutes);
- 17 (10) Chapter 398, Acts of the 51st Legislature,
18 Regular Session, 1949 (Article 8280-138, Vernon's Texas Civil
19 Statutes); or
- 20 (11) Chapter 465, Acts of the 51st Legislature,
21 Regular Session, 1949 (Article 8280-139, Vernon's Texas Civil
22 Statutes). (V.T.I.C. Art. 3.39, Part I, Sec. A, Para. 16.)

23 Source Law

24 [Part I. A life insurance company organized
25 under the laws of this state may invest its several
26 funds, identified as follows, in the following
27 securities, respectively,

28 A. ANY OF ITS FUNDS AND ACCUMULATIONS]

29 16. Securities Authorized by Special Acts of the
30 Legislature. Securities authorized under Articles:
31 842a; 842a-1; 881a-24; 1187a; 5890c; 6795b-1;
32 7880-19a; 8247a; 8280-133; 8280-134; 8280-137;
33 8280-138; and 8280-139 of the Revised Civil Statutes
34 of Texas.

35 Revisor's Note

36 (1) Paragraph 16, Section A, Part I, V.T.I.C.
37 Article 3.39, refers to securities "authorized under"
38 Articles 842a and 842a-1, Revised Civil Statutes of

1 Texas, meaning, respectively, Chapter 160, General
2 Laws, Acts of the 43rd Legislature, Regular Session,
3 1933, and Chapter 230, Acts of the 49th Legislature,
4 Regular Session, 1945. Those articles do not authorize
5 the issuance of securities but provide that certain
6 obligations issued or guaranteed by the United States,
7 specific federal agencies, or the State of Texas are
8 legal and authorized investments for, among other
9 entities, insurers. Accordingly, the revised law
10 refers to securities "described by" those articles.

11 (2) Paragraph 16, Section A, Part I, V.T.I.C.
12 Article 3.39, refers to "[s]ecurities authorized
13 under" Article 881a-24, Revised Civil Statutes of
14 Texas, meaning Section 25, Chapter 61, General Laws,
15 Acts of the 41st Legislature, 2nd Called Session,
16 1929. Article 881a-24 provided that an insurer, among
17 other entities, could invest the insurer's funds in
18 share accounts of savings and loan associations and
19 that those investments by insurers were eligible for
20 tax-reducing purposes under Article 7064. Article
21 881a-24 was repealed by Chapter 113, Acts of the 58th
22 Legislature, Regular Session, 1963. That act enacted
23 the Texas Savings and Loan Act (Article 852a, Vernon's
24 Texas Civil Statutes). The relevant portion of Article
25 881a-24 became Section 6.14, Texas Savings and Loan
26 Act, and was codified in 1997 as Section 65.013,
27 Finance Code. The revised law is drafted accordingly.
28 The revised law also adds a reference to "investments"
29 under Section 65.013, Finance Code, because share
30 accounts, referred to in Chapter 65, Finance Code, as
31 "savings accounts," are not "securities."

32 (3) Paragraph 16, Section A, Part I, V.T.I.C.
33 Article 3.39, refers to Article 1187a, Revised Civil
34 Statutes of Texas, meaning Chapter 231, General Laws,

1 Acts of the 43rd Legislature, Regular Session, 1933.
2 That statute was codified in 1999 as Subchapter B,
3 Chapter 1505, Government Code. The revised law is
4 drafted accordingly.

5 (4) Paragraph 16, Section A, Part I, V.T.I.C.
6 Article 3.39, refers to Article 5890c, Revised Civil
7 Statutes of Texas, meaning Chapter 3, page 494,
8 General Laws, Acts of the 46th Legislature, Regular
9 Session, 1939. Article 5890c provided that bonds
10 issued by the Texas National Guard Armory Board were
11 legal and authorized investments for insurers, among
12 other entities. Article 5890c was repealed by Chapter
13 112, Acts of the 58th Legislature, Regular Session,
14 1963, and by Chapter 690, Acts of the 59th Legislature,
15 Regular Session, 1965. The 1965 act enacted Article
16 5767, Revised Statutes, relating to the Texas National
17 Guard Armory Board. Section 6(8), Article 5767,
18 contained language similar to Article 5890c. Article
19 5767 was repealed by Chapter 186, Acts of the 60th
20 Legislature, Regular Session, 1967. That act enacted
21 Title 97A, Revised Statutes, relating to the Texas
22 National Guard Armory Board. Part of that title,
23 Article 5931-5(a)(8), contained language similar to
24 that in Section 6(8), Article 5767. Article
25 5931-5(a)(8) was codified in 1987 as Sections
26 435.041-435.047, Government Code. The revised law is
27 drafted accordingly.

28 (5) Paragraph 16, Section A, Part I, V.T.I.C.
29 Article 3.39, refers to Article 6795b-1, Revised Civil
30 Statutes of Texas, meaning Chapter 304, Acts of the
31 50th Legislature, Regular Session, 1947. That article
32 was codified in 1995 as Chapter 284, Transportation
33 Code. The revised law is drafted accordingly.

34 (6) Paragraph 16, Section A, Part I, V.T.I.C.

1 Article 3.39, refers to Article 7880-19a, Revised
2 Civil Statutes of Texas, meaning Chapter 25, General
3 Laws, Acts of the 39th Legislature, Regular Session,
4 1925. The relevant portion of that article was
5 codified in 1971 as Section 51.039, Water Code. The
6 revised law is drafted accordingly.

7 (7) Paragraph 16, Section A, Part I, V.T.I.C.
8 Article 3.39, refers to Article 8247a, Revised Civil
9 Statutes of Texas, meaning Chapter 111, Acts of the
10 43rd Legislature, 1st Called Session, 1933. The
11 relevant portion of that article was codified in 1971
12 as Section 60.104, Water Code. The revised law is
13 drafted accordingly.

14 (8) Paragraph 16, Section A, Part I, V.T.I.C.
15 Article 3.39, refers to Article 8280-134, Revised
16 Civil Statutes of Texas, meaning Chapter 159, Acts of
17 the 51st Legislature, Regular Session, 1949. That
18 article created the Lower Nueces River Water Supply
19 District and authorized the district to issue
20 obligations. Chapter 844, Acts of the 69th
21 Legislature, Regular Session, 1985, dissolved the
22 district and required payment of all outstanding
23 district obligations. On dissolution of the district,
24 Article 8280-134 was repealed. Accordingly, the
25 revised law omits the reference to Article 8280-134.

26 Revised Law

27 Sec. 425.213. AUTHORIZED INVESTMENTS FOR ALL FUNDS: OTHER
28 SECURITIES SPECIFICALLY AUTHORIZED BY LAW. An insurer may invest
29 any of the insurer's funds and accumulations in:

30 (1) an adequately secured equipment trust obligation
31 or certificate or another adequately secured instrument
32 evidencing:

33 (A) an interest in transportation equipment that
34 is located wholly or partly within the United States; and

1 (B) a right to receive determined portions of
2 rental, purchase, or other fixed obligatory payments for the use or
3 purchase of the transportation equipment; and

4 (2) any other security as specifically authorized by
5 law. (V.T.I.C. Art. 3.39, Part I, Sec. A, Para. 17.)

6 Source Law

7 [Part I. A life insurance company organized under
8 the laws of this state may invest its several funds,
9 identified as follows, in the following securities,
10 respectively,

11 A. ANY OF ITS FUNDS AND ACCUMULATIONS]

12 17. Other Securities Specifically Authorized by
13 Law. (1) Equipment trust obligations or certificates
14 that are adequately secured or other adequately
15 secured instruments evidencing an interest in
16 transportation equipment that is in whole or in part
17 within the United States and a right to receive
18 determined portions of rental, purchase, or other
19 fixed obligatory payments for the use or purchase of
20 the transportation equipment; and

21 (2) Such other securities as are now or may
22 hereafter be specifically authorized by law.

23 Revisor's Note

24 Paragraph 17(2), Section A, Part I, V.T.I.C.
25 Article 3.39, refers to "securities as are now or may
26 hereafter be specifically authorized by law." The
27 revised law omits "as are now or may hereafter be" for
28 the reason stated in Revisor's Note (1) to Section
29 425.002.

30 Revised Law

31 Sec. 425.214. AUTHORIZED INVESTMENTS FOR ALL FUNDS: LOANS
32 SECURED BY REAL PROPERTY. (a) Subject to this section, an insurer
33 may loan any of the insurer's funds and accumulations and take as
34 collateral a first lien on real property to which the title is
35 valid.

36 (b) The amount of a loan secured by a first lien on real
37 property may exceed 75 percent of the property value only if:

38 (1) the amount does not exceed 90 percent of the
39 property value and the property contains only a dwelling designed
40 exclusively for occupancy by not more than four families for
41 residential purposes; or

1 (2) the amount does not exceed 95 percent of the
2 property value and:

3 (A) the property contains only a dwelling
4 designed exclusively for occupancy by not more than four families
5 for residential purposes; and

6 (B) the portion of the unpaid balance of the loan
7 that exceeds 80 percent of the property value is guaranteed or
8 insured by a mortgage guaranty insurer authorized to engage in
9 business in this state.

10 (c) An insurer may not originate a loan that exceeds 75
11 percent of the value of the real property securing the loan.

12 (d) The aggregate amount of an insurer's loans secured by
13 first liens on real property to any one corporation, company,
14 partnership, individual, or any affiliated person or group may not
15 exceed 10 percent of the insurer's admitted assets. The amount of
16 any single loan secured by a first lien on real property may not
17 exceed five percent of the insurer's admitted assets.

18 (e) The limitations imposed by Subsections (b)-(d) do not
19 apply to a first lien on real property if the commissioner finds
20 that:

21 (1) the making or acquiring of the lien is beneficial
22 to and protects the interest of the insurer; and

23 (2) no substantial damage to the insurer's
24 policyholders and creditors appears probable from the taking or
25 acquiring of the lien.

26 (f) Subject to Subsections (g)-(j), an insurer may loan any
27 of the insurer's funds and accumulations and take as collateral a
28 first lien on a leasehold estate in:

29 (1) real property to which the title is valid; and

30 (2) improvements located on the property to which the
31 title is valid.

32 (g) The term of a loan secured by first lien on a leasehold
33 estate in real property may not, as of the date the loan is made,
34 exceed a period equal to four-fifths of the unexpired term of the

1 leasehold estate. The term of the leasehold estate may not expire
2 sooner than the 10th anniversary of the expiration of the term of
3 the loan.

4 (h) A loan secured by a first lien on a leasehold estate in
5 real property must be payable in equal monthly, quarterly,
6 semiannual, or annual installments on principal and interest during
7 a period not to exceed four-fifths of the unexpired term, as of the
8 date the loan is made, of the leasehold estate.

9 (i) The restrictions imposed by this section on the value of
10 the real property securing a loan compared to the amount of the
11 loan, and on the duration of a loan secured by a leasehold estate in
12 real property, do not apply to a loan if:

13 (1) the entire amount of the indebtedness is insured
14 or guaranteed in any manner by:

15 (A) the United States;

16 (B) the Federal Housing Administration under the
17 National Housing Act (12 U.S.C. Section 1701 et seq.), as amended;
18 or

19 (C) this state; or

20 (2) the difference between the entire amount of the
21 indebtedness and the portion of the loan insured or guaranteed by an
22 entity described by Subdivision (1) does not exceed the amount of a
23 loan permitted by the applicable restriction.

24 (j) If any part of the value of buildings is to be included
25 in the value of real property or leasehold estate in real property
26 to attain the minimum authorized value of the security for a loan
27 under this section:

28 (1) the buildings must be insured against loss by fire
29 by:

30 (A) an insurer authorized to engage in business
31 in the state in which the real property is located; or

32 (B) a company recognized as acceptable for that
33 purpose by the insurance regulatory official of the state in which
34 the real property is located;

1 (2) the amount of insurance coverage may not be less
2 than 50 percent of the value of the buildings, except that the
3 insurance coverage is not required to exceed the outstanding
4 balance owed to the insurer if the outstanding balance of the loan
5 is less than 50 percent of the value of the buildings; and

6 (3) the loss clause under the insurance must be
7 payable to the insurer. (V.T.I.C. Art. 3.39, Part II (part), Sec.
8 A, Paras. 1, 2, 6, 8.)

9 Source Law

10 [Part II. A life insurance company organized
11 under the laws of this state] may loan its several
12 funds [identified as follows,] taking as collateral
13 security for the payment of such loans the securities
14 named below, and [none other.]

15 A. ANY OF ITS FUNDS ACCUMULATIONS

16 Such company may loan any of its funds and
17 accumulations on the following securities:

18 1. First Liens Upon Real Estate. First liens
19 upon real estate, the title to which is valid and
20 provided the amount of the loan does not exceed: (a)
21 seventy-five (75%) per cent of the value of such real
22 estate; or (b) ninety (90%) per cent of the value of
23 such real estate if it contains only a dwelling
24 designed exclusively for occupancy by not more than
25 four families for residential purposes; or (c)
26 ninety-five (95%) per cent of the value of such real
27 estate if it contains only a dwelling designed
28 exclusively for occupancy by not more than four
29 families for residential purposes, and the portion of
30 the unpaid balance of such loan which is in excess of
31 an amount equal to eighty (80%) per cent of such value
32 is guaranteed or insured by a mortgage insurance
33 company qualified to do business in the State of Texas;
34 provided, however, that loans in excess of
35 seventy-five (75%) per cent of the value of such real
36 estate authorized under (b) or (c) hereof shall not be
37 originated by such company; provided, however, that
38 the aggregate amount of loans secured by first liens on
39 real estate to any one corporation, company,
40 partnership, individual, or any affiliated person or
41 group may not exceed ten (10%) per cent of the admitted
42 assets of such insurer, and provided further that the
43 amount of any such single loan secured by a first lien
44 on real estate may not exceed five (5%) per cent of the
45 admitted assets of the insurer. The limitation
46 provided by this subsection shall not apply to any
47 first lien on real estate where the Commissioner of
48 Insurance finds that: (1) the making or acquiring of
49 such lien is beneficial to and protects the interest of
50 the insurer and (2) no substantial damage to the
51 policyholders and creditors of such insurer appears
52 probable from the taking or acquiring of such lien.

53 2. First Liens Upon Leasehold Estates. First
54 liens upon leasehold estates in real property and
55 improvements situated thereon, the title to which is
56 valid; provided that the duration of any loan upon such
57 leasehold estates shall not exceed a period equal to
58 four-fifths (4/5) of the then unexpired term of such

1 leasehold estate, provided the unexpired term of the
2 leasehold estate must extend at least ten (10) years
3 beyond the term of the loan, and any such loan shall be
4 payable only in equal monthly, quarterly, semi-annual
5 or annual installments, on principal and interest
6 during a period not exceeding four-fifths (4/5) of the
7 then unexpired term of such leasehold estate.

8 6. Restrictions as to Value of Real Estate
9 Removed Where Loans Insured by the United States. The
10 foregoing restrictions as to the value of the real
11 estate security compared to the amount loaned thereon
12 and as to the duration of such loans shall not be
13 applied to loans if the entire amount of the
14 indebtedness is insured or guaranteed in any manner by
15 the United States, the Federal Housing Administration
16 pursuant to the National Housing Act of 1934, as
17 amended (12 U.S.C.A. Sec. 1701 et seq.), or by the
18 State of Texas, or, if not wholly insured or
19 guaranteed, the difference between the entire amount
20 of the indebtedness and that portion thereof insured
21 or guaranteed by the United States, the Federal
22 Housing Administration pursuant to the National
23 Housing Act of 1934, as amended, or by the State of
24 Texas, would not exceed the amount of loan permissible
25 under said restrictions.

26 8. Insurance Requirements. If any part of the
27 value of buildings is required to be included in the
28 value of such real estate to attain the minimum
29 authorized value of the security, such buildings shall
30 be insured against loss by fire in a company authorized
31 to transact business in the state in which such real
32 estate is located, or in a company recognized as
33 acceptable for such purpose by the insurance
34 regulatory official of the state in which such real
35 estate is located, which insurance shall be in an
36 amount of at least fifty per cent (50%) of the value of
37 such buildings; provided, that the insurance coverage
38 need not exceed the outstanding balance owed to the
39 lending company when the outstanding balance falls
40 below fifty per cent (50%) of the value of the
41 buildings. The loss clause shall be payable to such
42 company.

43 Revisor's Note

44 Paragraph 1, Section A, Part II, V.T.I.C. Article
45 3.39, refers to a "mortgage insurance company" that is
46 "qualified" to engage in business. The revised law
47 substitutes "mortgage guaranty insurer" for "mortgage
48 insurance company" and "authorized" for "qualified"
49 for the reasons stated in the revisor's note to Section
50 425.118.

51 Revised Law

52 Sec. 425.215. AUTHORIZED INVESTMENTS FOR ALL FUNDS: LOANS
53 SECURED BY CERTAIN COLLATERAL SECURED BY REAL PROPERTY. An insurer
54 may loan any of the insurer's funds and accumulations and take as

collateral an obligation secured by a first lien on real property or a leasehold estate that is eligible to secure a loan under Section 425.214. (V.T.I.C. Art. 3.39, Part II, Sec. A, Para. 3.)

Source Law

[Part II. A life insurance company organized under the laws of this state may loan its several funds identified as follows, taking as collateral security for the payment of such loans the securities named below, and none other.

A. ANY OF ITS FUNDS ACCUMULATIONS

Such company may loan any of its funds and accumulations on the following securities:]

3. Collateral Securities. Upon any obligation secured collaterally by any such first liens on real estate or leasehold estates.

Revised Law

Sec. 425.216. AUTHORIZED INVESTMENTS FOR ALL FUNDS: POLICY LOANS. (a) Subject to Subsection (b), an insurer may loan any of the insurer's funds and accumulations and take as collateral an insurance policy issued by the insurer.

(b) A loan on a policy under this section may not exceed the reserve value of the policy. (V.T.I.C. Art. 3.39, Part II, Sec. A, Para. 4.)

Source Law

[Part II. A life insurance company organized under the laws of this state may loan its several funds identified as follows, taking as collateral security for the payment of such loans the securities named below, and none other.

A. ANY OF ITS FUNDS ACCUMULATIONS

Such company may loan any of its funds and accumulations on the following securities:]

4. Policy Loans. Security of Its Own Policies. No loan on any policy shall exceed the reserve values thereof.

Revised Law

Sec. 425.217. AUTHORIZED INVESTMENTS FOR ALL FUNDS: LOANS SECURED BY CERTAIN SECURITIES. An insurer may loan any of the insurer's funds and accumulations and take as collateral for the loan any security described by Sections 425.205-425.213 and 425.218 in which the insurer may invest any of the insurer's funds and accumulations. (V.T.I.C. Art. 3.39, Part II, Sec. A, Para. 5.)

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A. ANY OF ITS FUNDS ACCUMULATIONS

Such company may loan any of its funds and accumulations on the following securities:]

Revised Law

(b) The amount of any one investment by an insurer under this section may not exceed one percent of the insurer's admitted assets.

- (1) five percent of the insurer's admitted assets; or
- (2) the amount of the insurer's capital and surplus in excess of \$200,000 as shown on the last annual statement filed by the insurer with the department before the date the investment is acquired.

Source Law

A. ANY OF ITS FUNDS AND ACCUMULATIONS]

1 15. Securities Not Otherwise Specified.
2 Notwithstanding any expressed or implied
3 prohibitions, a life insurance company may, after the
4 effective date of this amendment, invest any of its
5 funds and accumulations in investments which do not
6 otherwise qualify under any other provision of Chapter
7 3 of the Insurance Code; provided, however, that the
8 amount of any one such investment under this Section
9 shall not exceed one per cent (1%) of the admitted
10 assets of any such life insurance company; and
11 provided further, that the investments authorized by
12 this Section shall not exceed the lesser of (a) five
13 per cent (5%) of its admitted assets, or (b) the amount
14 of its capital and surplus in excess of Two Hundred
15 Thousand Dollars (\$200,000) as shown on its last
16 annual statement preceding the date of the acquisition
17 of such investment as filed with the State Board of
18 Insurance.

19 Nothing herein shall be construed or applied so
20 as to authorize any life insurance company to invest
21 any of its funds or accumulations in real property
22 unless already authorized to do so by this Act or some
23 other existing law of the State of Texas. . . .

24 Revisor's Note

25 (1) Paragraph 15, Section A, Part I, V.T.I.C.
26 Article 3.39, provides that a life insurance company
27 may, "after the effective date of this amendment,"
28 invest any of its funds in investments that do not
29 otherwise qualify under another provision of V.T.I.C.
30 Chapter 3. The revised law omits "after the effective
31 date of this amendment" as unnecessary because the
32 quoted language means that the law is to apply
33 prospectively. Under Section 311.022, Government Code
34 (Code Construction Act), which applies to the revised
35 law, a statute is presumed to operate prospectively
36 unless expressly made retroactive.

37 (2) Paragraph 15, Section A, Part I, V.T.I.C.
38 Article 3.39, refers to "investments which do not
39 otherwise qualify under any other provision of Chapter
40 3 of the Insurance Code." V.T.I.C. Chapter 3 is revised
41 in many chapters of this code. The relevant provisions
42 of V.T.I.C. Chapter 3--those that regulate the
43 investments of life insurers--are revised in this
44 chapter. The revised law is drafted accordingly.

Revised Law

Sec. 425.219. AUTHORIZED INVESTMENTS FOR POLICY RESERVES AND SURPLUS: BONDS OF CERTAIN WATER CONTROL AND IMPROVEMENT DISTRICTS. An insurer may invest the insurer's policy reserves and surplus over and above the insurer's capital in municipal bonds issued under Section 51.039, Water Code. (V.T.I.C. Art. 3.39, Part I, Sec. B.)

Source Law

[Part I. A life insurance company organized under the laws of this state may invest its several funds, identified as follows, in the following securities, respectively,]

B. POLICY RESERVES AND SURPLUS

1. Specified Municipal Bonds. It may invest its policy reserves and surplus over and above its capital in "Municipal Bonds" issued under and by virtue of Chapter 280, Acts 1929, 41st Legislature.

Revisor's Note

Section B, Part I, V.T.I.C. Article 3.39, refers to "Chapter 280, Acts 1929, 41st Legislature." Section 18 of that act (originally classified as Article 7880-19a, Vernon's Texas Civil Statutes), which provided for the issuance of bonds by water control and improvement districts that are operating as municipal districts, was codified in 1971 as Section 51.039, Water Code. The revised law is drafted accordingly.

Revised Law

Sec. 425.220. AUTHORIZED INVESTMENTS FOR CAPITAL, SURPLUS, AND CONTINGENCY FUNDS: CAPITAL STOCK, BONDS, AND OTHER CORPORATE OBLIGATIONS. (a) Subject to this section and Section 425.226, an insurer may invest the insurer's capital, surplus, and contingency funds in the capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of:

(1) a solvent corporation that has not defaulted in the payment of any debt during the five years preceding the investment; or

1 (2) a solvent corporation that has not been in
2 existence for the five years preceding the investment, if:

3 (A) the corporation has succeeded to the business
4 and assets and has assumed the liabilities of another corporation;
5 and

6 (B) neither the successor corporation nor the
7 corporation succeeded has defaulted in the payment of any debt
8 during the five years preceding the investment.

9 (b) An insurer may not invest in the stock of:

10 (1) a manufacturing corporation with a net worth of
11 less than \$25,000; or

12 (2) an oil corporation with a net worth of less than
13 \$500,000.

14 (c) Except as provided by Subsection (d), an insurer's
15 investment in the insurer's own capital stock or in the stock of a
16 single corporation may not be in an amount exceeding 10 percent of
17 the amount of the insurer's capital, surplus, and contingency
18 funds.

19 (d) An insurer may own, and the insurer may invest not more
20 than 25 percent of the insurer's capital, surplus, and contingency
21 funds in, the capital stock of a single fire and casualty insurance
22 company if that investment gives the insurer a majority of the
23 outstanding stock of the fire and casualty insurance company.

24 (e) In addition to the investments authorized by this
25 section and subject to Section 425.226, an insurer may invest in the
26 capital stock, bonds, and other obligations of one or more solvent
27 corporations that portion of the insurer's surplus funds that
28 exceeds the greater of:

29 (1) 10 percent of the insurer's admitted assets, as
30 determined from the insurer's latest annual statement on file with
31 the department; or

32 (2) the minimum capital and surplus requirements for
33 incorporating a life insurance company under Chapter 841.
34 (V.T.I.C. Art. 3.39, Part I, Sec. C, Paras. 1, 3.)

Source Law

[Part I. A life insurance company organized under the laws of this state may invest its several funds, identified as follows, in the following securities, respectively,]

C. CAPITAL, SURPLUS AND CONTINGENCY FUNDS
OVER AND ABOVE POLICY RESERVES

It may invest its capital, surplus and contingency funds over and above the amount of its policy reserves in the following securities:

1. Capital Stock, Bonds, and Other Obligations of Corporations. The capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of any solvent corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent corporation which has not been in existence for five (5) consecutive years next preceding such investment, provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment.

3. Limitation of Investments. It may not invest in its own capital stock nor in the stock of any one corporation to any extent more than ten per cent (10%) of the amount of its own capital, surplus, and contingent funds, nor in the stock of any manufacturing corporation with a net worth of less than Twenty-Five Thousand Dollars (\$25,000), nor in the stock of any oil corporation with a net worth of less than Five Hundred Thousand Dollars (\$500,000); provided, however, that it may own and invest not more than twenty-five per cent (25%) of its capital, surplus and contingency funds in the capital stock of one fire and casualty insurance company, provided such investment gives it a majority of the outstanding stock of such fire and casualty insurance company; and provided further, it may additionally invest that portion of its surplus funds which is in excess of the greater amount of either (a) ten per cent (10%) of its admitted assets as determined from its latest annual statement on file with the State Board of Insurance or (b) the minimum capital and surplus requirements for incorporating a life insurance company under Chapter 3 of the Insurance Code, as amended, as it may be amended, in the capital stock, bonds and other obligations of any one or more solvent corporations.

Revisor's Note

(1) Paragraphs 1 and 3, Section C, Part I, V.T.I.C. Article 3.39, provide that an insurer may invest its capital, surplus, and contingency funds in capital stock, bonds, and other corporate obligations, subject to limitations in those paragraphs. Paragraph 4, Section F, Part I, V.T.I.C. Article 3.39, which is

revised in this chapter as Section 425.226, contains an additional limitation on investment of those funds in corporate obligations. For the reader's convenience, the revised law includes a reference to the limitations in Section 425.226.

(2) Paragraph 3, Section C, Part I, V.T.I.C. Article 3.39, refers to "the minimum capital and surplus requirements for incorporating a life insurance company under Chapter 3 of the Insurance Code, as amended." The relevant requirements from V.T.I.C. Chapter 3 are revised in Chapter 841 of this code, and the revised law is drafted accordingly. The revised law omits the reference to "as amended" for the reason stated in Revisor's Note (2) to Section 425.058.

Revised Law

Sec. 425.221. AUTHORIZED INVESTMENTS FOR CAPITAL, SURPLUS, AND CONTINGENCY FUNDS: BONDS OR NOTES OF EDUCATIONAL OR RELIGIOUS CORPORATIONS. Subject to Section 425.226, an insurer may invest the insurer's capital, surplus, and contingency funds in a bond or note of an educational or religious corporation that has provided for the payment of a sufficient amount of the first weekly or monthly revenues of the corporation to an interest and sinking fund account in a bank or trust company as an independent paying agent. (V.T.I.C. Art. 3.39, Part I, Sec. C, Para. 2.)

Source Law

[Part I. A life insurance company organized under the laws of this state may invest its several funds, identified as follows, in the following securities, respectively,]

[C. CAPITAL, SURPLUS AND CONTINGENCY FUNDS
OVER AND ABOVE POLICY RESERVES
It may invest its capital, surplus and contingency funds over and above the amount of its policy reserves in the following securities:]

2. Bonds or Notes of Educational or Religious Corporations. The bonds or notes of any educational or religious corporation where provision has been made for the payment of a sufficient amount of the first weekly or monthly revenues thereof to an interest and sinking fund account in a bank or trust company as an

1 independent paying agent.

2 Revisor's Note

3 Paragraph 2, Section C, Part I, V.T.I.C. Article
4 3.39, provides that an insurer may invest its capital,
5 surplus, and contingency funds in bonds or notes of
6 educational or religious corporations. The revised
7 law includes a reference to the limitations in Section
8 425.226 for the reason stated in Revisor's Note (1) to
9 Section 425.220.

10 Revised Law

11 Sec. 425.222. AUTHORIZED INVESTMENTS FOR CAPITAL, SURPLUS,
12 AND CONTINGENCY FUNDS: LIFE INCOME INTERESTS IN QUALIFIED TRUSTS.

13 (a) Subject to this section, an insurer may invest the insurer's
14 capital, surplus, and contingency funds in a life income interest
15 in a qualified irrevocable express testamentary trust.

16 (b) For purposes of this section, a trust is a qualified
17 trust if:

18 (1) each fee simple recipient of any part of the corpus
19 of the trust:

20 (A) is a public charity, church, educational
21 institution, or scientific institution;

22 (B) is located in this state; and

23 (C) is recognized by the United States Internal
24 Revenue Service as exempt from payment of income taxes;

25 (2) the corpus of the trust is wholly or partly
26 composed of interests in real estate, stocks, bonds, debentures,
27 and other securities of an aggregate total value of at least \$5
28 million; and

29 (3) the corpus of the trust produces annual income of
30 at least \$100,000.

31 (c) An insurer's life income interest in a qualified trust
32 may not exceed 10 percent of the insurer's admitted assets.

33 (d) Before an insurer may acquire a life income interest in
34 a qualified trust, the insurer must present evidence satisfactory

1 to the commissioner that shows:

2 (1) the interest is subject to transfer and is
3 recognized as transferable;

4 (2) the interest is capable of reasonable valuation;

5 (3) a market for the sale of the interest exists; and

6 (4) the interest is supported by life insurance in:

7 (A) an amount not less than the admitted value of
8 the interest; and

9 (B) a form approved by the commissioner.

10 (e) In valuing a life income interest in a qualified trust
11 on the insurer's books, the insurer may value the interest only on
12 the basis of the lesser of:

13 (1) the recognized market established in accordance
14 with Subsection (d)(3); or

15 (2) the ratio that the fractional life income interest
16 in the income of the trust bears to the total market value of the
17 properties held by the trust that are of a type of property an
18 insurer may lawfully acquire under the investment statutes of this
19 state. (V.T.I.C. Art. 3.39, Part I, Sec. C, Para. 4.)

20 Source Law

21 [Part I. A life insurance company organized
22 under the laws of this state may invest its several
23 funds, identified as follows, in the following
24 securities, respectively,]

25 [C. CAPITAL, SURPLUS AND CONTINGENCY FUNDS OVER AND
26 ABOVE POLICY RESERVES

27 It may invest its capital, surplus and
28 contingency funds over and above the amount of its
29 policy reserves in the following securities:]

30 4. Certain Life Income Interests. (a) Life
31 income interest in an irrevocable express testamentary
32 trust that has as the fee simple recipient of all the
33 corpus of the trust one or more Texas public charities,
34 Texas churches, Texas educational institutions or
35 Texas scientific institutions; provided each
36 recipient is recognized by the Internal Revenue
37 Service of the United States as exempt from payment of
38 income taxes and provided further that (1) the corpus
39 of any such trust is in whole or in part composed of
40 interests in real estate, stocks, bonds, debentures
41 and other securities of an aggregate total value of not
42 less than \$5,000,000; and (2) the corpus of any such
43 trust produces annual income of not less than
44 \$100,000.

45 (b) No life insurance company's interest in any

1 such trust shall exceed ten per cent (10%) of its
2 admitted assets.

3 (c) Before such interest shall be acquired,
4 satisfactory evidence shall be presented to the
5 Commissioner of Insurance as follows:

6 (1) That the interest is subject to and
7 recognized as transferable,

8 (2) That the interest is capable of
9 reasonable valuation,

10 (3) That a market for sale of such interest
11 exists,

12 (4) That the life income interest is
13 supported by life insurance in an amount not less than
14 its admitted value and in form approved by the
15 Commissioner of Insurance.

16 (d) In valuing such interest on its books, the
17 life insurance company shall value the interest only
18 on the basis of the lesser of, (1) the recognized
19 market established in accordance with Section (c)(3)
20 above, or (2) the ratio that such fractional life
21 income interest in the income of the trust bears to the
22 total market value of the properties held by the trust
23 that are of the type of property a life insurance
24 company can lawfully acquire under the investment
25 statutes of the State of Texas.

26 Revised Law

27 Sec. 425.223. AUTHORIZED INVESTMENTS FOR CAPITAL, SURPLUS,
28 AND CONTINGENCY FUNDS: CAPITAL STOCK OF REINSURER. (a) Subject to
29 Subsection (b), an insurer may invest the insurer's capital,
30 surplus, and contingency funds in not more than 20 percent of the
31 capital stock of any other insurance company organized under
32 Chapter 841 whose principal business is the reinsurance, either
33 wholly or partly, of risks ceded to that insurer by other life
34 insurance companies.

35 (b) The aggregate amount of an insurer's investments under
36 this section may not exceed 10 percent of the insurer's capital,
37 surplus, and contingency funds.

38 (c) The investment authorized by this section may be made by
39 purchase of stock issued and outstanding or by subscription to and
40 payment for the increase in the capital stock of the reinsurer.
41 (V.T.I.C. Art. 3.39, Part I, Sec. D.)

42 Source Law

43 [Part I. A life insurance company organized
44 under the laws of this state may invest its several
45 funds, identified as follows, in the following
46 securities, respectively,]

47 D. CAPITAL, SURPLUS AND CONTINGENCY FUNDS NOT TO
48 EXCEED 10%
49 1. Capital Stock of Other Insurance

1 Corporations. It may invest not to exceed ten per cent
2 (10%) of its capital, surplus, and contingency funds,
3 in not more than twenty per cent (20%) of the capital
4 stock of any other insurance company, now or hereafter
5 organized under this Chapter, whose principal business
6 is the reinsurance, either partially or wholly, of
7 risks ceded to it by other life insurance companies.
8 The investment herein authorized may be made by
9 purchase of stock then issued and outstanding or by
10 subscription to and payment for the increase in the
11 capital stock of such reinsurance corporation.

12 Revisor's Note

13 Paragraph 1, Section D, Part I, V.T.I.C. Article
14 3.39, refers to an "insurance company . . . organized
15 under this Chapter," meaning V.T.I.C. Chapter 3. The
16 revised law refers to Chapter 841 of this code for the
17 reason stated in Revisor's Note (2) to Section 425.220.

18 Revised Law

19 Sec. 425.224. AUTHORIZED INVESTMENTS FOR CAPITAL, SURPLUS,
20 AND CONTINGENCY FUNDS: LOANS SECURED BY CORPORATE STOCK. (a)
21 Subject to this section, an insurer may loan the insurer's capital,
22 surplus, and contingency funds and take as collateral the capital
23 stock, bonds, bills of exchange, or other commercial notes or bills
24 or the securities of:

25 (1) a solvent corporation that has not defaulted in
26 the payment of any debt during the five years preceding the
27 investment; or

28 (2) a solvent corporation that has not been in
29 existence for the five years preceding the investment, if:

30 (A) the corporation has succeeded to the business
31 and assets and has assumed the liabilities of another corporation;
32 and

33 (B) neither the successor corporation nor the
34 corporation succeeded has defaulted in the payment of any debt
35 during the five years preceding the investment.

36 (b) Subject to this section, an insurer may loan the
37 insurer's capital, surplus, and contingency funds and take as
38 collateral the bonds or notes of an educational or religious
39 corporation that has provided for the payment of a sufficient

1 amount of the first weekly or monthly revenues of the corporation to
2 an interest and sinking fund account in a bank or trust company as
3 an independent paying agent.

4 (c) The market value of the stock, bills of exchange, other
5 commercial notes or bills, or securities must be at all times during
6 the continuance of the loan at least 50 percent more than the amount
7 loaned on the securities or obligations.

8 (d) An insurer may not take as collateral for any loan:

9 (1) the insurer's capital stock;

10 (2) the stock of a single corporation in an amount that
11 exceeds 10 percent of the amount of the insurer's own capital,
12 surplus, and contingency funds;

13 (3) the stock of a manufacturing corporation with a
14 net worth of less than \$25,000;

15 (4) the stock of an oil corporation with a net worth of
16 less than \$500,000; or

17 (5) any stock, the holder or owner of which is or may
18 become liable for any assessment other than taxes. (V.T.I.C.
19 Art. 3.39, Part II, Sec. B.)

20 Source Law

21 [Part II. A life insurance company organized
22 under the laws of this state may loan its several funds
23 identified as follows, taking as collateral security
24 for the payment of such loans the securities named
25 below, and none other.]

26 B. CAPITAL, SURPLUS AND CONTINGENCY FUNDS OVER AND
27 ABOVE POLICY RESERVES

28 1. Capital Stock, Bonds, and Other Obligations
29 of Solvent Corporations, and Educational or Religious
30 Corporations. It may loan its capital, surplus, and
31 contingency funds, or any part thereof over and above
32 the amount of its policy reserves, taking as security
33 therefor the capital stock, bonds, bills of exchange,
34 or other commercial notes or bills and the securities
35 of any solvent corporation which has not defaulted in
36 the payment of any debt within five (5) years next
37 preceding such investment; or of any solvent
38 corporation which has not been in existence for five
39 (5) consecutive years next preceding such investment,
40 provided such corporation has succeeded to the
41 business and assets and has assumed the liabilities of
42 another corporation, and which corporation and the
43 corporation so succeeded have not defaulted in the
44 payment of any debt within five (5) years next
45 preceding such investment; or in the bonds or notes of
46 any Educational or Religious Corporation where

1 provision has been made for the payment of a sufficient
2 amount of the first weekly or monthly revenues thereof
3 to an interest and sinking fund account in a bank or
4 trust company as an independent paying agent;
5 provided, the market value of such stock, bills of
6 exchange, or other commercial notes or bills and
7 securities shall be at all times during the
8 continuance of such loan at least fifty per cent (50%)
9 more than the sum loaned thereon; provided that it
10 shall not take as collateral security for any loan its
11 own capital stock, nor shall it take as collateral
12 security for any loan the stock of any one corporation
13 to any extent more than ten per cent (10%) of the
14 amount of its own capital, surplus, and contingency
15 funds, nor shall it take as collateral security for any
16 loan the stock of any manufacturing corporation with a
17 net worth of less than Twenty-Five Thousand Dollars
18 (\$25,000), nor the stock of any oil corporation with a
19 net worth of less than Five Hundred Thousand Dollars
20 (\$500,000); and provided further, that it shall not
21 take as collateral security for any such loan any stock
22 on account of which the holder or owner thereof may in
23 any event be or become liable to any assessment except
24 for taxes.

25 Revised Law

26 Sec. 425.225. INVESTMENT IN FOREIGN SECURITIES. (a) An
27 insurer authorized to engage in business in a foreign country may
28 invest in securities of that country that are the same kind of
29 securities as those in the United States in which an insurer is
30 authorized by this subchapter to invest.

31 (b) The aggregate amount of an insurer's investments under
32 this section may not exceed the amount of the insurer's reserves on
33 the business in force in the foreign country. (V.T.I.C. Art. 3.39,
34 Part I, Sec. F, Para. 1.)

35 Source Law

36 F. GENERAL

37 1. Investment in Foreign Securities. Any such
38 company legally authorized to transact business in a
39 foreign country may invest in the same kind of
40 securities of said country as hereinbefore authorized
41 in the United States of America for an aggregate amount
42 not exceeding the reserve on the business in force in
43 said country.

44 Revisor's Note

45 Paragraph 1, Section F, Part I, V.T.I.C. Article
46 3.39, refers to an insurer that is "legally authorized
47 to transact business in a foreign country." The
48 revised law omits "legally" as unnecessary. A company
49 that is "authorized" to transact business in a foreign

country is "legally authorized" to do so.

Revised Law

Sec. 425.226. INVESTMENT IN STOCK SUBJECT TO ASSESSMENT PROHIBITED. An insurer may not invest any of the insurer's funds in a stock, the holder or owner of which is or may become liable for any assessment other than taxes. (V.T.I.C. Art. 3.39, Part I, Sec. F, Para. 4.)

Source Law

4. Not to Invest in Stock Subject to Assessment. No such insurance company shall invest any of its funds in any stock on account of which the holder or owner thereof may in any event be or become liable to any assessment except for taxes.

Revised Law

Sec. 425.227. CERTAIN INVESTMENT POWERS NOT A RESTRICTION. The investment powers granted by Sections 425.207 and 425.208 may not be construed as restricting the powers granted by Sections 425.220 and 425.221. (V.T.I.C. Art. 3.39, Part I, Sec. F, Para. 5.)

Source Law

5. Certain Investment Privileges Are Cumulative. The investment powers conferred by Paragraphs Nos. 11 and 12, Section A, are in addition to those conferred by Paragraphs Nos. 1, 2 and 3, Section C, and are not to be construed as restricting the powers already granted by said Paragraphs Nos. 1, 2 and 3 of Section C and Paragraphs Nos. 11 and 12, Section A, and the powers conferred herein are cumulative with respect to Paragraphs Nos. 1, 2 and 3, Section C, and the powers conferred therein.

Revisor's Note

Paragraph 5, Section F, Part I, V.T.I.C. Article 3.39, provides that the "investment powers conferred by Paragraphs Nos. 11 and 12, Section A, are in addition to those conferred by Paragraphs Nos. 1, 2 and 3, Section C," and that "the powers conferred herein are cumulative with respect to Paragraphs Nos. 1, 2 and 3, Section C, and the powers conferred therein." The revised law omits the quoted language as unnecessary. An accepted general principle of statutory construction requires a statute to be given cumulative

1 effect with other statutes unless it provides
2 otherwise or unless the statutes are in conflict. The
3 general principle applies to this revision.

4 Revised Law

5 Sec. 425.228. INVESTMENTS OF CEDING INSURER. (a) Subject
6 to this section, if a domestic insurer assumes the business and
7 takes over the assets of another domestic or a foreign insurer, all
8 investments of the ceding insurer that were authorized, when made,
9 by the laws of the state in which the ceding insurer was organized
10 as proper securities for investment of the funds of an insurer and
11 that are taken over by the assuming insurer are considered to be
12 valid securities of the assuming insurer under the laws of this
13 state.

14 (b) The commissioner must approve investments described by
15 Subsection (a) and the terms on which those investments are taken
16 over. The commissioner may require the assuming insurer to dispose
17 of any of the investments on notice the commissioner considers
18 reasonable. (V.T.I.C. Art. 3.39, Part I, Sec. F, Para. 3.)

19 Source Law

20 3. Investments of Companies Reinsured. In any
21 case in which a life insurance company organized under
22 the laws of this state shall reinsure the business and
23 take over the assets of another life insurance
24 company, either domestic or foreign, all investments
25 of such reinsured company that were authorized, when
26 made, by the laws of the state in which it was
27 organized, as proper securities for investment of the
28 funds of a life insurance company, and which are taken
29 over by such reinsuring company, shall be considered
30 as valid securities of such reinsuring company under
31 the laws of this state, provided such investments are
32 approved by the Board of Insurance Commissioners of
33 this state, and the same are taken over on terms
34 satisfactory to said Board; and upon the condition
35 that the Board of Insurance Commissioners shall have
36 the power to require the reinsuring company to dispose
37 of such investments upon such notice as it may deem
38 reasonable.

39 Revised Law

40 Sec. 425.229. AUTHORIZED INVESTMENTS: REAL ESTATE FOR
41 INSURER'S OFFICES. (a) Subject to this section, an insurer may
42 secure, hold, and convey the following real property:

43 (1) one building site and office building for the

1 insurer's accommodation in the transaction of the insurer's
2 business and for lease;

3 (2) branch office buildings in this state and
4 elsewhere within the United States in which the insurer is
5 authorized to engage in business as necessary for the insurer's
6 convenient accommodation in the transaction of the insurer's
7 business and for lease; and

8 (3) parking facilities adjacent to or in the vicinity
9 of each office building owned by the insurer as reasonably
10 necessary for the insurer and the building tenants.

11 (b) An office building described by Subsection (a)(1) may be
12 on ground on which the insurer owns a lease the term of which
13 expires not sooner than the 50th anniversary of the date the insurer
14 acquires the lease. The insurer must own, or be entitled to the use
15 of, all the improvements on the leased ground. The value of the
16 improvements must be at least equal to the value of the ground and
17 at least 20 times the annual average ground rentals payable under
18 the lease. The office building must have an annual average net
19 rental of at least twice the annual ground rental. The insurer must
20 be liable for and shall pay all state and local taxes imposed
21 against the ground and improvements. For purposes of taxation, the
22 ground and improvements are considered to be real property owned by
23 the insurer. The commissioner must approve the acquisition of an
24 office building on leased ground before the insurer makes the
25 investment.

26 (c) The insurer must use at least 50 percent of the space in
27 each branch office building under Subsection (a)(2) that is
28 available for occupancy for business purposes for the transaction
29 of the insurer's business and not for lease to others.

30 (d) An insurer may make an investment under Subsection
31 (a)(2) or (3) only in a municipality that has a population of 15,000
32 or more.

33 (e) An insurer may not make an investment under this section
34 if, after making the investment, the insurer's aggregate

1 investments under this section would exceed 33-1/3 percent of the
2 insurer's admitted assets as of December 31 preceding the date of
3 the investment, except that an insurer's aggregate investments
4 under this section may be increased to an amount not to exceed 50
5 percent of the insurer's admitted assets if the commissioner
6 approves the investment in advance, and the investment may be
7 further increased if the additional increase is paid for only from
8 surplus funds and is not included as an admitted asset of the
9 insurer.

10 (f) The value of each investment under this section is
11 subject to the approval of the commissioner. The commissioner may,
12 at the time the investment is made or any time when an examination
13 of the insurer is being made, have an investment under this section
14 appraised by an appraiser appointed or approved by the
15 commissioner. The insurer shall pay the reasonable expense of the
16 appraisal. The expense of the appraisal is considered to be an
17 expense of the examination of the insurer. An insurer may not make
18 any increase in the valuation of real property described by
19 Subsection (a) unless the increase in valuation is approved by the
20 commissioner, subject to the conditions imposed by Subsection (e).
21 (V.T.I.C. Art. 3.40 (part).)

22 Source Law

23 Art. 3.40. Every such insurance company may
24 secure, hold and convey real property only for the
25 following purposes and in the following manner:

26 1(a). One building site and office building for
27 its accommodation in the transaction of its business
28 and for lease and rental; and such office building may
29 be on ground on which the company owns a lease having
30 not less than fifty (50) years to run from the date of
31 its acquisition by the company, provided that the
32 company shall own, or be entitled to the use of, all
33 the improvements thereon, and that the value of such
34 improvements shall at least equal the value of the
35 ground, and shall be not less than twenty (20) times
36 the annual average ground rentals payable under such
37 lease; and provided such office building shall have an
38 annual average net rental of at least twice such annual
39 ground rental; and provided further, that such company
40 shall be liable for and shall pay all state and local
41 taxes levied and assessed against such ground and the
42 improvements thereon, which for the purposes of
43 taxation shall be deemed real estate owned by the
44 company. Provided that an acquisition of such an
45 office building on leased ground shall be approved by

1 the State Board of Insurance before such investment.

2 Branch office buildings in the State of Texas and
3 elsewhere within the United States wherein such
4 company is authorized to do business as shall be
5 requisite for its convenient accommodation in the
6 transaction of its business and for lease and rental
7 and also parking facilities adjacent to or in the
8 vicinity of each office building owned by such
9 insurance company as shall be reasonably requisite for
10 such insurance company and tenants of the buildings;
11 however, at least fifty per cent (50%) of the space in
12 each such branch office building which is available
13 for occupancy for business purposes shall be used by
14 such insurance company for the transaction of its
15 business and not for lease and rental to others;
16 provided, however, that such investments in the
17 properties described in this paragraph shall only be
18 made in towns or cities having a population of fifteen
19 thousand (15,000) or more according to the last
20 Federal Census.

21 1(b). No such company shall make any investment
22 in the properties described in Subdivision 1(a) above
23 if, after making such investment, the total investment
24 of the company in such properties is in excess of
25 thirty-three and one-third per cent (33 1/3%) of its
26 admitted assets as of December 31st next preceding the
27 date of such investment; provided, however, that such
28 investment may be increased to as much as fifty per
29 cent (50%) of the company's admitted assets upon
30 advance approval by the State Board of Insurance;
31 provided further, that such investment may be further
32 increased if the amount of such additional increase is
33 paid for only from surplus funds and is not included as
34 an admitted asset of the company.

35 1(c). The value of each such investment in the
36 properties described in Subdivision 1(a) shall be
37 subject to the approval by the State Board of
38 Insurance; and the Board may, in its discretion, at the
39 time such investment is made or any time when an
40 examination of the company is being made, cause any
41 such investment to be appraised by an appraiser
42 appointed or approved by the Board, and the reasonable
43 expense of such appraisal shall be paid by such
44 insurance company and shall be deemed to be a part of
45 the expense of examination of such company. No such
46 insurance company may hereafter make any increase in
47 the valuation of any of the properties described in
48 Subdivision 1(a) unless and until such increased
49 valuation shall be likewise approved by the Board,
50 subject to the limitations and conditions set out in
51 Subdivision 1(b);

52 . . .

53 Revisor's Note

54 (1) Section 1(a), V.T.I.C. Article 3.40, refers
55 to securing and holding an office building "for lease
56 and rental." The revised law omits the reference to
57 "rental" as unnecessary because the meaning of that
58 term is included in the meaning of "lease."

59 (2) Section 1(a), V.T.I.C. Article 3.40, refers
60 to taxes "levied and assessed" against ground and

1 improvements used as an insurer's office building.
2 Such taxes would be ad valorem taxes subject to Title
3 1, Tax Code. The revised law substitutes "imposed" for
4 "levied and assessed" because "impose" is the term
5 generally used in Title 1, Tax Code, and includes both
6 the levy and assessment of an ad valorem tax.

7 (3) Section 1(a), V.T.I.C. Article 3.40, refers
8 to "towns or cities." The revised law substitutes
9 "municipality" for "town or city" for the reason
10 stated in Revisor's Note (6) to Section 425.002.

11 (4) Section 1(a), V.T.I.C. Article 3.40,
12 describes a population number that is to be determined
13 according to "the last Federal Census." The revised
14 law omits the reference to the federal census as
15 unnecessary. Section 311.005(3), Government Code
16 (Code Construction Act), defines "population" as
17 population according to the most recent federal
18 decennial census. That definition applies to the
19 revised law.

20 (5) Section 1(c), V.T.I.C. Article 3.40, refers
21 to the "limitations and conditions" of Section 1(b) of
22 that article. The revised law omits the reference to
23 "limitations" as unnecessary because the meaning of
24 that term is included in the meaning of "conditions."

25 Revised Law

26 Sec. 425.230. AUTHORIZED INVESTMENTS: OIL, GAS, AND
27 MINERALS. (a) In this section and Section 425.231:

28 (1) "Producing" means producing oil, gas, or other
29 minerals in paying quantities. A well that has been shut in is
30 considered to be producing oil, gas, or other minerals in paying
31 quantities if shut-in royalties are being paid.

32 (2) "Production payment" means a right to oil, gas, or
33 other minerals in place or as produced that entitles the owner of
34 the right to a specified fraction of production until the owner

1 receives a specified amount of money, or a specified number of units
2 of oil, gas, or other minerals.

3 (3) "Royalty" or "overriding royalty" means a right to
4 oil, gas, and other minerals in place or as produced that entitles
5 the owner of the right to a specified fraction of production without
6 limitation to a specified amount of money or a specified number of
7 units of oil, gas, or other minerals.

8 (b) Subject to this section, in addition to and without
9 limitation on the purposes for which real property may be acquired,
10 secured, held, or retained under Section 425.229 or 425.231, an
11 insurer may secure, hold, retain, and convey production payments,
12 producing royalties, and producing overriding royalties as an
13 investment for the production of income.

14 (c) The aggregate amount of an insurer's investments under
15 this section, plus the aggregate amount of the insurer's
16 investments in home office and branch office properties under
17 Section 425.229, may not exceed the total amount permitted by and is
18 subject to all of the limitations imposed by Sections 425.229(e)
19 and (f). For purposes of this subsection, an investment in
20 production payments, producing royalties, or producing overriding
21 royalties is considered to be an investment in property described
22 by Section 425.229.

23 (d) For the purposes of Section 425.229(f), the
24 commissioner may establish a value of a production payment,
25 producing royalty, or producing overriding royalty as the maximum
26 amount that the insurer purchasing the production payment,
27 producing royalty, or producing overriding royalty could loan
28 against a first lien on the production payment, producing royalty,
29 or producing overriding royalty under Sections 425.214(f)-(h).

30 (e) An insurer may not make an investment in production
31 payments, producing royalties, or producing overriding royalties
32 solely for the production of income if, after making the
33 investment, the insurer's total investment at cost in the
34 production payments, producing royalties, or producing overriding

1 royalties would exceed 10 percent of the insurer's admitted assets
2 as of December 31 preceding the date of the investment.

3 (f) If production in paying quantities from a royalty
4 interest or overriding royalty interest held by an insurer ends,
5 the insurer shall sell and dispose of the royalty or overriding
6 royalty not later than the second anniversary of the date the
7 production ends, unless:

8 (1) production in paying quantities has resumed; or

9 (2) the insurer obtains from the commissioner a
10 certificate stating that the insurer's interests will suffer
11 materially by the forced sale of the interest.

12 (g) The commissioner shall state in a certificate under
13 Subsection (f)(2) the amount of time by which the period for sale is
14 extended under that subsection. (V.T.I.C. Art. 3.40 (part).)

15 Source Law

16 Art. 3.40. . . .

17 In addition to, and without limitation on, the
18 purposes for which real property may be acquired,
19 secured, held or retained pursuant to other provisions
20 of this Article, every such insurance company may
21 secure, hold, retain and convey production payments,
22 producing royalties and producing overriding
23 royalties as an investment for the production of
24 income; provided, however, that the total amount of
25 all such investments in production payments, producing
26 royalties and producing overriding royalties plus the
27 total amount of investments in home office and branch
28 office properties under Subdivision 1(a) of this
29 Article shall not exceed the total amount permitted by
30 and shall be subject to all of the limitations and
31 restrictions of Subdivisions 1(b) and 1(c) of this
32 Article and for this purpose all investments in
33 production payments, producing royalties and
34 producing overriding royalties pursuant to the
35 provisions of this paragraph shall be deemed to be
36 "properties described in Subdivision 1(a)" of this
37 Article; and provided further, that in valuing each
38 such production payment, producing royalty and
39 producing overriding royalty for the purposes of
40 Subdivision 1(c) of this Article the State Board of
41 Insurance may establish such value as being the
42 maximum amount which the company purchasing such
43 production payment, producing royalty and producing
44 overriding royalty could loan against a first lien on
45 such production payment, producing royalty and
46 producing overriding royalty under the provisions of
47 Part II, Section A, Subsection 2 of Article 3.39 of the
48 Insurance Code; and provided further, no such company
49 shall make any investment in such production payments,
50 producing royalties and producing overriding
51 royalties solely as an investment for the production
52 of income if, after making such investment, the total

1 investment of the company at cost in such production
2 payments, producing royalties and producing
3 overriding royalties is in excess of ten per cent (10%)
4 of its admitted assets as of December 31st next
5 preceding the date of such investment. For the
6 purposes of this paragraph, a production payment is
7 defined to mean a right to oil, gas or other minerals
8 in place or as produced that entitles its owner to a
9 specified fraction of production until a specified sum
10 of money, or a specified number of units of oil, gas or
11 other minerals, has been received; a royalty and an
12 overriding royalty are each defined to mean a right to
13 oil, gas and other minerals in place or as produced
14 that entitles the owner to a specified fraction of
15 production without limitation to a specified sum of
16 money, or a specified number of units of oil, gas or
17 other minerals; "producing" is defined to mean
18 producing oil, gas or other minerals in paying
19 quantities, provided that it shall be deemed that oil,
20 gas or other minerals are being produced in paying
21 quantities if a well has been "shut in" and "shut in
22 royalties" are being paid. In the event production in
23 paying quantities should cease from any such royalty
24 interest or overriding royalty interest held by any
25 insurance company, such royalty or overriding royalty
26 shall be sold and disposed of within two (2) years
27 after such production shall have ceased, unless
28 production in paying quantities shall have been
29 resumed, or unless such Insurance Company shall have
30 procured a certificate from the Board that its
31 interests will suffer materially by the forced sale
32 thereof; in which event the sale may be extended to
33 such time as the Board shall direct in such
34 certificate.

35 Revisor's Note

36 V.T.I.C. Article 3.40 refers to "the limitations
37 and restrictions" of Sections 1(b) and (c) of that
38 article. The revised law omits the reference to
39 "restrictions" as unnecessary because the meaning of
40 that term is included in the meaning of "limitations."

41 Revised Law

42 Sec. 425.231. AUTHORIZED INVESTMENTS: REAL PROPERTY
43 ACQUIRED UNDER CERTAIN CIRCUMSTANCES. (a) Subject to this
44 section, an insurer may secure, hold, and convey the following real
45 property:

46 (1) real property acquired in good faith as security
47 for a loan previously contracted or for money due;

48 (2) real property conveyed to the insurer to satisfy a
49 debt previously contracted in the course of the insurer's dealings;
50 and

51 (3) real property purchased at a sale under a

1 judgment, court decree, or mortgage or other lien held by the
2 insurer.

3 (b) An insurer shall sell and dispose of all property
4 described by Subsection (a) that is not necessary for the insurer's
5 accommodation in the convenient transaction of the insurer's
6 business, other than an interest in minerals or royalties reserved
7 on the sale of land acquired under Subsection (a) or an interest in
8 producing royalties or producing overriding royalties otherwise
9 acquired, not later than the fifth anniversary of:

10 (1) the date the insurer acquires title to the
11 property; or

12 (2) the date the property ceases to be necessary for
13 the accommodation of the insurer's business.

14 (c) An insurer may hold property acquired under Subsection
15 (a) for a period longer than that specified by Subsection (b) if the
16 insurer obtains a certificate from the commissioner stating that
17 the insurer's interests will suffer materially by the forced sale
18 of the property. The commissioner shall state in the certificate
19 the amount of time by which the period for sale is extended under
20 this subsection. (V.T.I.C. Art. 3.40 (part).)

21 Source Law

22 Art. 3.40. Every such insurance company may
23 secure, hold and convey real property only for the
24 following purposes and in the following manner:

25 . . .
26 2. Such as have been acquired in good faith by
27 way of security for loans previously contracted or for
28 moneys due;

29 3. Such as have been conveyed to it in the
30 satisfaction of debts previously contracted in the
31 course of its dealings;

32 4. Such as have been purchased at sales under
33 judgment or decrees of court, or mortgage or other
34 liens held by such companies.

35 5. All such real property specified in
36 Subdivisions 2, 3, and 4 of this Article which shall
37 not be necessary for its accommodation in the
38 convenient transactions of its business, except
39 interests in minerals and royalties reserved upon the
40 sale of land acquired under such Subdivisions 2, 3, and
41 4 hereof, and further excepting interests in producing
42 royalties and producing overriding royalties
43 otherwise acquired, shall be sold and disposed of
44 within five (5) years after the company shall have
45 acquired title to the same, or within five (5) years
46 after the same shall have ceased to be necessary for

1 the accommodation of its business. It shall not hold
2 such property for a longer period, unless it shall
3 procure a certificate from the Board that its
4 interests will suffer materially by the forced sale
5 thereof; in which event the time for the sale may be
6 extended to such time as the Board shall direct in such
7 certificate.

8 . . .

9 Revised Law

10 Sec. 425.232. AUTHORIZED INVESTMENTS: IMPROVED
11 INCOME-PRODUCING REAL PROPERTY. (a) In this section, "improved
12 income-producing real property" includes all commercial and
13 industrial real property, a substantial portion of which has been
14 materially enhanced in value by the construction of durable,
15 permanent-type buildings and other improvements costing an amount
16 at least equal to the value of the real property, excluding the
17 buildings and improvements, that is held or acquired by purchase,
18 lease, or otherwise for the production of income. The term does not
19 include agricultural, horticultural, farm and ranch, or
20 residential property, or single or multiunit family dwelling
21 property.

22 (b) Notwithstanding Sections 425.229, 425.230, and 425.231,
23 subject to this section, a domestic insurer may:

24 (1) invest any of the insurer's funds and
25 accumulations in improved income-producing real property or any
26 interest in improved income-producing real property; and

27 (2) hold, improve, maintain, manage, lease, sell, or
28 convey improved income-producing real property or an interest in
29 improved income-producing real property.

30 (c) The aggregate amount of an insurer's investments in all
31 income-producing real property, including improvements, may not
32 exceed 15 percent of the insurer's admitted assets. The amount of
33 an insurer's investment in a single piece of improved
34 income-producing real property, including improvements, may not
35 exceed five percent of the insurer's admitted assets. For purposes
36 of this subsection, an insurer's admitted assets are determined
37 from the insurer's annual statement as of the preceding December 31
38 and filed with the department as required by law. Section

1 425.229(f) applies to the value of any investment made under this
2 section.

3 (d) The investment authority granted by this section is in
4 addition to that granted by Sections 425.229, 425.230, and 425.231,
5 except that an insurer may not make an investment in improved
6 income-producing real property that, when added to the insurer's
7 investments under Section 425.229, would exceed the limitations
8 imposed by Section 425.229(e).

9 (e) This section does not permit an insurer to purchase
10 undeveloped real property for the purpose of development or
11 subdivision. (V.T.I.C. Art. 3.40-1, Secs. 1, 3.)

12 Source Law

13 Art. 3.40-1

14 Sec. 1. Notwithstanding any provision or
15 limitation of Article 3.40 of this Code, any life
16 insurance company organized under the laws of this
17 state may invest any of its funds and accumulations in
18 improved income producing real estate or any interest
19 therein, and may hold, improve, maintain, manage,
20 lease, sell or convey such property or interest
21 therein, subject to the following terms, conditions
22 and limitations:

23 (1) The term "improved income producing
24 real estate" as used in this Article shall include all
25 commercial and industrial real property, a substantial
26 portion of which has been materially enhanced in value
27 by the construction of durable, permanent-type
28 buildings and other improvements costing an amount at
29 least equal to the value of such real estate exclusive
30 of building and improvements, as may be held or
31 acquired by purchase or lease, or otherwise, for the
32 production of income, excepting any agricultural,
33 horticultural, farm and ranch property, residential
34 property, single or multiunit family dwelling
35 property, which is expressly excluded.

36 (2) The total amount invested by any such
37 company in all such income producing property and
38 improvements thereof shall not exceed fifteen per
39 centum of its admitted assets, provided, however, that
40 the amount invested in any one such property and its
41 improvements shall not exceed five per centum of its
42 admitted assets. The admitted assets of the company at
43 any time shall be determined from its annual statement
44 made as of the last preceding December 31 and filed
45 with the State Board of Insurance as required by law.
46 The value of any investment made under this Article
47 shall be subject to Subdivision 1(c) of Article 3.40 of
48 this Code.

49 (3) The investment authority granted by
50 this Article 3.40-1 is in addition to and separate and
51 apart from that granted by Article 3.40 of this Code,
52 provided, however, that no such company shall make any
53 investment in the properties described in this Article
54 3.40-1 which when added to those described in
55 subdivision 1(a) of Article 3.40 of this Code would be

1 in excess of the limitations provided by subdivision
2 1(b) of Article 3.40 of this Code.

3 Sec. 3. Nothing contained in this Article shall
4 permit such a life insurance company to purchase
5 undeveloped real estate for the purpose of development
6 or subdivision.

7 Revisor's Note

8 (1) Section 1, V.T.I.C. Article 3.40-1, refers
9 to any "provision or limitation" of V.T.I.C. Article
10 3.40. The revised law omits the reference to
11 "limitation" for the reason stated in the revisor's
12 note to Section 425.130.

13 (2) Section 2, V.T.I.C. Article 3.40-1,
14 provides that improved income-producing real estate
15 owned by a life insurance company will not "be
16 classified as 'Texas Securities.'" The revised law
17 omits this provision as obsolete and unnecessary.
18 Former V.T.I.C. Article 3.33, which required life
19 insurance companies to invest a specific portion of
20 their assets in "Texas securities," was repealed by
21 Chapter 332, Acts of the 58th Legislature, Regular
22 Session, 1963. The omitted law reads:

23 Sec. 2. The property owned by such
24 life insurance company pursuant to this
25 Article shall not be classified as "Texas
26 Securities".

27 (3) Section 4, V.T.I.C. Article 3.40-1, limits
28 the amount of a life insurance company's investments in
29 improved income-producing real estate "during the
30 first seven years after the effective date of this
31 Act." The revised law omits this provision as expired.
32 Article 3.40-1 was enacted by Chapter 660, Acts of the
33 60th Legislature, Regular Session, 1967, and took
34 effect August 28, 1967. The omitted law reads:

35 Sec. 4. No life insurance company may
36 invest more than one per centum of its
37 admitted assets in income producing real
38 estate in any one year during the first
39 seven years after the effective date of this
40 Act, provided, however, if a life insurance
41 company invests less than one per centum of

1 its admitted assets in income producing
2 real estate during any one year such life
3 insurance company may thereafter, at any
4 time, invest the difference between the
5 percentage of admitted assets invested and
6 one per centum of admitted assets and such
7 percentage shall be in addition to and
8 cumulative of the amount of income
9 producing real estate in which such life
10 insurance company may invest in any
11 particular year hereunder.

12 Revisor's Note
13 (End of Subchapter)

14 Section E, Part I, V.T.I.C. Article 3.39,
15 prescribes authorized investments, at the time of
16 incorporation, for the capital and surplus of stock
17 life insurance companies "organized under Article 3.02
18 of this Code" and of mutual life insurance companies
19 "organized under Article 11.01 of this Code." Section
20 E also contains provisions relating to the investment
21 of those companies' capital and surplus after
22 incorporation. The revised law omits Section E as
23 unnecessary. As to stock life insurance companies,
24 Section E duplicates requirements of Sections
25 841.054(c) (capital and surplus requirements on
26 incorporation) and 841.201 of this code (investment of
27 capital and surplus after a charter is granted) (both
28 sections were formerly part of V.T.I.C. Article 3.02).
29 As to mutual life insurance companies, Section E
30 duplicates Section 882.055 of this code (surplus
31 requirements on incorporation) and Sections 882.301
32 and 882.304 of this code (investment of surplus after a
33 charter is granted) (all three sections were formerly
34 part of V.T.I.C. Article 11.01). The omitted law
35 reads:

36 E. MINIMUM CAPITAL AND SURPLUS
37 1. Requirement as to Investment of
38 Minimum Capital and Surplus.
39 Notwithstanding other provisions of this
40 Article 3.39 of this Code, the capital and
41 surplus of a company hereafter organized
42 under Article 3.02 of this Code and the free
43 surplus of a company hereafter organized
44 under Article 11.01 of this Code shall, at

1 the time of incorporation, consist only of
2 lawful money of the United States, or bonds
3 of the United States, or of this state, or
4 of any county or incorporated municipality
5 thereof, or government insured mortgage
6 loans which are otherwise authorized by
7 this Chapter, and shall not include any real
8 estate; provided, however, that fifty per
9 cent (50%) of the minimum capital may be
10 invested in first mortgage real estate
11 loans; and the minimum capital of a company
12 hereafter organized under said Article 3.02
13 and the minimum free surplus of a company
14 hereafter organized under said Article
15 11.01 at all times shall be maintained in
16 cash or in the same classes of investments.
17 After the granting of charter the surplus in
18 excess of such One Hundred Thousand Dollars
19 (\$100,000) may be invested as otherwise
20 provided in this Code for Stock Companies.

21 CHAPTER 426. RESERVES FOR WORKERS' COMPENSATION

22 INSURANCE COMPANIES

23 Sec. 426.001. RESERVES REQUIRED 406

24 Sec. 426.002. COMPUTATION OF RESERVES 407

25 Sec. 426.003. MAINTENANCE OF RESERVES; NOTICE OF

26 NONCOMPLIANCE 407

27 CHAPTER 426. RESERVES FOR WORKERS' COMPENSATION

28 INSURANCE COMPANIES

29 Revised Law

30 Sec. 426.001. RESERVES REQUIRED. A workers' compensation

31 insurance company engaged in business in this state shall maintain

32 reserves in an amount estimated in the aggregate to provide for the

33 payment of all losses and claims incurred, whether reported or

34 unreported. The company may not maintain reserves in an amount that

35 is greater than reasonably necessary for that purpose. (V.T.I.C.

36 Art. 5.61, Sec. (a) (part).)

37 Source Law

38 Art. 5.61. (a) Each workers' compensation

39 insurer transacting business in this state shall

40 maintain reserves in an amount estimated in the

41 aggregate to provide for the payment of all losses and

42 claims incurred, whether reported or unreported, but

43 not in an amount greater than reasonably required for

44 those purposes. . . .

45 Revisor's Note

46 V.T.I.C. Article 5.61 refers to a "workers'

47 compensation insurer." Throughout this chapter, the